

THE LEGISLATIVE COUNCIL OF THE GOVERNOR OF MADRAS.

Saturday, the 17th March 1934.

The House met at eleven of the clock, Mr. President (the Hon. Mr. B. RAMACHANDRA REDDI in the Chair.

PRESENT :

Usman Sahib Bahadur, K.C.I.E., The Hon. Khan Bahadur Sir Mahomed.
Krishnan Nayar, Kt., The Hon. Diwan Bahadur Sir M.
Campbell, K.C.I.E., C.S.I., C.B.E., V.D., I.C.S., The Hon. Sir Archibald.
Stokes, K.C.I.E., C.S.I., I.C.S., The Hon. Sir Hopetoun.
Raja of Bobbili, The Hon. the Rajan, The Hon. Mr. P. T.
Kumaraswami Reddiyar, The Hon. Diwan Bahadur S.
Abdul Hameed Khan Sahib Bahadur.
Ahmed Meeran Sahib Bahadur.
Alagannan Chettiyar, Rao Sahib A. S.
Alamelumangathayaramma, Mrs. K.
Appadurai Pillai, Diwan Bahadur A.
Arasu, Mr. V. T.
Ari Gowder, Mr. H. B.
Basheer Ahmed Sayeed Sahib Bahadur.
Basu Dev, Mr. C.
Beyabani Sahib Bahadur, S. M. K.
Bhanoji Rao,* Mr. A. V.
Birley, Mr. F.
Devadasan, Mr. M.
Dharmalingam Pillai, Rao Sahib V.
Ellappa Chettiyar, Diwan Bahadur S.
Foulkes, Mr. R.
Gopalaswami Ayyangar, Diwan Bahadur N.
Harischandrudu Nayudu, Mr. A.
Hood, I.C.S., Mr. H. M.
Jagannatha Raju, Rao Bahadur G.
Jagannatham, Mr. H. M.
Jayaram Nayudu, Rao Sahib C.
Kesavaramamurti Nayudu, Mr. K.
Khalif-ul-lah Sahib Bahadur, Khan Bahadur P.
Krishnayya Chotdari, Mr. P. V.
Krishnamurti, Rao Bahadur D.
Krishnan, Mr. C.
Ladden, Mr. W. W.
Lakshmana Reddi, Mr. G.
Madanagopal Nayudu, Mr. R.
Mahboob Ali Baig Sahib Bahadur.
Mahmud Schamnad Sahib Bahadur, Khan Bahadur.

Manikkavelu Nayakar, Mr. M. A.
Metherell, Mr. J. K.
Moses, Mr. P. C.
Muniswami Pillai, Rao Sahib V. I.
Muthiah Chettiyar, Mr. M. A.
Nachiyappa Gounder, Mr. K. A.
Nanjappa Bahadur, Subadar-Major S. A.
Narasimhaswami, Rao Sahib D. V.
Narayanan Nambiyar, Mr. V. P.
Natesa Mudaliyar, Rao Bahadur C.
Palat, Mr. R. M.
Pannirselvam, Rao Bahadur A. T.
Parthasarathi Ayyangar, Mr. C. R.
Patnaik Mahasayo, Sriman M. G.
Patro, Kt., Rao Bahadur Sir A. P.
Pattabhiramayya, Mr. K.
Peddi Raju, Mr. P.
Pocker Sahib Bahadur, B.
Premayya, Mr. G. R.
Rajagopala Pillai, Mr. P. V.
Raja of Parlakimedi, The.
Ramakrishna Reddi, Mr. A.
Ramalingam Chettiyar, Rao Bahadur T. A.
Ramamurti, Rao Sahib Pandit Ganala.
Raman Menon, Mr. K. P.
Ramaswami Ayyar, Mr. T. S.
Ranganatha Mudaliyar, Mr. A.
Ranganatha Mudaliyar, Mr. G.
Ranganatha Mudaliyar, Mr. M. D. T.
Rangaswami Reddi, Mr. M. B.
Ratnasabhapatil Mudaliyar, Diwan Bahadur C. S.
Sami Venkatachalam Chetti, Mr.
Sesha Reddi, Mr. B. P.
Shetty, Mr. A. B.
Siva Raj, Rao Sahib N.
Smith, C.I.E., I.C.S., Mr. E. Conran.
Sreshta, Mr. M. S.
Srinivasan, Rao Bahadur R.
Sriramulu, Mr. G.
Subbarayan, Dr. P.
Subrahmanya Chetti, Rao Sahib P.
Subrahmanya Bhatt, Mr. U. C.
Sundara Rao Nayudu, Mr. T.
Syed Tajuddin Sahib Bahadur, Khan Sahib.

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PRESENT—cont.

Thangal, Mr. P. M.
 Thomas, Mr. Daniel.
 Thorne, C.I.E., I.C.S., Mr. J. A.
 Vasudeva Pillai, Mr. V. G.

Viswanatha Rao, Diwan Bahadur V. N.
 Yakub Hasan Sahib Bahadur.
 Zamindar of Kirlampudi, The.
 Zamindar of Mirzapuram, The.

I.—QUESTIONS AND ANSWERS

STARRED QUESTIONS

Agriculture.

Measures for combating the pests affecting ginger crops in Malabar.

* 790 Q.—MR. P. M. THANGAL: Will the Hon. the Minister for Public Works be pleased to state—

(a) whether complaints have been received by the Agricultural department about the pests affecting ginger crops in Malabar;

(b) if so, what action the Government have taken to remove such pests; and

(c) if no action has been taken, the reasons therefor?

A.—(a) On 20th September 1933 the Tahsildar of Ernad taluk wrote to the Agricultural Demonstrator, Manjeri, that ginger crops were affected by disease in certain villages in the taluk.

(b) The local Demonstrator in Mycology visited the affected areas and investigated the disease. Specimens of diseased ginger were sent to the Government Mycologist at Coimbatore, who discovered that the disease was due to the fungus “*Pythium butleri*” and suggested certain remedies for the prevention and check of the disease. The Agricultural Department will do all that is possible to control the disease.

(c) Does not arise.

Local Self-Government

District Municipalities working at a deficit.

* 791 Q.—MR. M. B. RANGASWAMI REDDI: Will the Hon. the Minister for Local Self-Government be pleased to state—

(a) how many and which of the District Municipalities are working at a deficit; and

(b) what steps the Government propose to take to rectify the same?

A.—(a) A statement ^a is laid on the table.

(b) Steps have to be taken by the Municipal Councils themselves. The advice given to them in this connexion is shown in the statement referred to in the answer to clause (a) above.

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Land Revenue Administration

Recommendation of the Indian Taxation Enquiry Committee regarding standardization of assessment on ryotwari lands.

* 792 Q.—MR. M. B. RANGASWAMI REDDI: Will the Hon. the Member for Revenue be pleased to state what action was taken by the Government on the recommendation of the Indian Taxation Enquiry Committee to standardize the rate of assessment on ryotwari lands at a comparatively low figure not exceeding 25 per cent of the annual value as defined by that Committee?

A.—The Committee's recommendation was as follows:—

The land revenue should be standardized at a comparatively low rate, not exceeding 25 per cent of the annual value (though this rate would initially tend to conform to the existing pitch of the assessment), so as to give greater scope for local taxation of land, which might be increased up to 4 annas in the rupee on the standard rate of land revenue assessment; over and above this, special assessments should be imposed for special local improvements. The Committee contemplated the introduction of local legislation to give effect to the recommendation. In view of the failure which had attended the attempts of this Government to place the assessment of land revenue on a statutory basis, the Government considered it impossible to bring the recommendation into effect.

Settlement operations in the Kurnool district.

* 793 Q.—MR. A. RAMAKRISHNA REDDI: Will the Hon. the Member for Revenue be pleased to state—

(a) whether the Government have appointed a settlement officer to carry on settlement operations in the Kurnool district; and

(b) whether the Government intend to put the new settlement rates into force on the completion of the settlement operations?

A.—(a) A settlement officer has been appointed to make enquiries for the purpose of preparing a scheme report.

(b) A decision as to whether the rates will be revised, and if so what those rates shall be, can be taken only after the scheme report has been prepared and published, and the views of the Board of Revenue and the people of the district on the scheme report have been ascertained and considered. The new settlement rates will ordinarily be brought into force at the beginning of the new settlement period unless for special reasons the Government postpone their immediate introduction.

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Mr. A. RAMAKRISHNA REDDI:—" May I know, Sir, what the special reasons are for which the Government may postpone the introduction of the new settlement rates? "

The Hon. Sir ARCHIBALD CAMPBELL:—" I am afraid, Sir, I cannot say that now."

Mr. A. RAMAKRISHNA REDDI:—" The answer to clause (b) says: ' the new settlement rates will ordinarily be brought into force at the beginning of the new settlement period unless for special reasons the Government postpone their immediate introduction.' I want to know the nature of the special reasons for which the Government may postpone the introduction."

The Hon. Sir ARCHIBALD CAMPBELL:—"There is generally no question of postponement, unless any special circumstances require a consideration of the question of their immediate introduction."

Mr. A. RAMAKRISHNA REDDI:—" If, Sir, the new settlement rates are in excess of the present rates, will not the Government consider that as a special reason for postponing the introduction of the settlement rates in view of the economic depression? "

The Hon. Sir ARCHIBALD CAMPBELL:—" Certainly not, Sir."

Mr. A. RANGANATHA MUDALIYAR:—" It is said in the answer that legislation was contemplated to give effect to the recommendation of the Committee. May I take it, Sir, that the idea of the Government was really to fix the assessment at 25 per cent of the annual value? "

The Hon. Sir ARCHIBALD CAMPBELL:—" May I point out, Sir, that this question of the hon. Member refers to question No. 792? We are now dealing with question No. 793."

Prisons and Prisoners

Alleged hunger-strike of Dr. K. V. Swami, a prisoner confined in the Central Jail at Salem.

* 794 Q.—Mr. K. A. NACHIAPPA GOUNDER: Will the Hon. the Law Member be pleased to state—

(a) whether it is a fact that one Dr. K. V. Swami who is now undergoing imprisonment in Salem Jail is going on hunger-strike;

(b) what the reasons are therefor;

(c) when and for what offences he was committed to prison and by whom he was sentenced to undergo imprisonment and to what period;

(d) in which jail or jails he was so far kept and what the period of his stay in each is;

(e) whether it is a fact that he was allowed wheat diet in other jails; and

(f) whether it is a fact that he was refused that kind of diet in Salem jail, and, if so, what the reasons are therefor?

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A.—(a) No.

(b) Does not arise.

(c) & (d) Statements are appended.*

(e) Not in all jails. He was given rice diet in the Penitentiary, Madras, and in the Central Jail, Trichinopoly.

(f) He was given wheat diet in the Salem jail till 23rd February 1934 on the mistaken assumption that the wheat diet was sanctioned by competent authority. Wheat cannot be given in lieu of rice except on medical grounds which do not exist in the case of this convict. The convict is being given rice for one month.

Mr. K. A. NACHIYAPPA GOUNDER:—" May I know, Sir, whether medical advice was taken with regard to the nature of the diet?"

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" No, there was no need to do so."

Mr. K. A. NACHIYAPPA GOUNDER:—" Was he taking wheat diet till the last date? "

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" The competent authority, i.e., the Court, has ordered only rice diet for him."

Mr. ABDUL HAMEED KHAN:—" In the answer to clause (a), the Government say that the gentleman is not now on hunger-strike. May I know whether he went on hunger-strike at any time? "

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" No, he refused one meal on a certain day."

Mr. BASHEER AHMED SAYEED:—" May I know whether he has been classified in any one of the three classes; if so, in what class? "

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" Notice."

Mr. P. V. KRISHNAYYA CHOUDARI:—" May I know, Sir, whether he has increased in weight since taking rice diet? "

(No reply).

Mr. ABDUL HAMEED KHAN:—" May I know whether the Hon. the Law Member is aware that cases of this nature are increasing so far as the Salem Jail is concerned? "

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" The cases are not increasing."

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[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—STATEMENT BY A MEMBER MOVING A CUT MOTION FOR HIS ABSENCE AT THE TIME OF VOTING.

Mr. BASHEER AHMED SAYEED:—“ Mr. President, Sir, my attention has been drawn to the observations that fell from the Chair the other day in connexion with my motion to reduce the Demand for Legislative Bodies by Rs. 100 on the afternoon of the 14th instant. I hasten to assure you, Sir, that nothing was farther from my mind than to show any discourtesy to this Honourable House or to the Leader thereof, and least of all to the Chair. You are well aware, Sir, that myself and persons similarly situated have, besides discharging the responsibility, as public men, of helping the Government in carrying on the administration of the country, also to discharge the onerous duties, as professional men, of helping the courts of law in the administration of Justice. If occasionally, Sir, I am called away from one sphere of activity to another, I need hardly assure you that it is in spite of my best endeavour to avoid such absence, rather than any intention on my part to be so absent; and it is not without much regret and anxiety that I go away on such occasions. I am indeed sorry, Sir, for my unavoidable absence from the House on the occasion in question; and I am also sorry that owing to my absence, I could not express my regret on an earlier occasion than this.”

III.—MOTION UNDER RULE 24-A OF THE MADRAS LEGISLATIVE COUNCIL RULES—IMPOSITION OF EXCISE DUTY ON SUGAR AND MATCHES.

* Dr. P. SUBBARAYAN:—“ Mr. President, I move—

‘ that this Council is of opinion that the imposition of an excise duty on sugar and matches is undesirable and that it is prejudicial to the interests of this Province.’

I must thank you, Mr. President, and the Member of Government in charge of this portfolio, for having given the House an opportunity of discussing this motion.

“ Hon. Members may remember that similar motions have been passed in some of the Provincial Legislative Councils and this step is being taken by Members of the Provincial Legislative Councils in order to bring home to the representatives of the Provinces on the Assembly, the general feeling in the country about the imposition of this excise duty especially on sugar. The Sugar Committee, which was presided over by Sir Reginald McKenna, reported as far back as 1920, but action with regard to that report was only taken about the year 1928 or 1929. Even then the question of tariffs or protection was not considered and the question of protection was specially referred to the Tariff Board in the year 1930. They reported on the 29th of January 1931. They say in their report considering the problem of sugarcane in India—

‘ It may be stated at the outset that the expansion of the sugar industry in India is an indispensable adjunct to agricultural development. At all times, cane cultivation occupies a prominent position in the agricultural economy of

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India and particularly at the present time when owing to the general world depression the prices of almost all alternative crops have fallen to an unremunerative level. It is of the utmost importance that the area under cane should not diminish and the real problem before us is to provide an outlet for the larger quantities of cane which may be expected from the introduction of improved varieties.'

So, you will see, Mr. President, that the Tariff Board who carefully went into this question felt that some amount of protection was necessary in order to encourage the Indian sugar industry and also in order to make it a possible alternative crop to the agriculturists. Now, with the fall of prices both of paddy and wheat, especially in the matter of wet cultivation, sugarcane has proved an alternative crop. They therefore say in regard to the substitution of sugarcane, compared with the other crops:

'The yield of crops grown after sugarcane is, generally speaking, considerably higher than that after other rotation crops. We have been told for example that in the United Provinces improved types of wheat grown after sugarcane give a yield of 30 maunds as against 20 maunds when the same type is grown after other crops.'

Therefore, the importance to the agriculturist of sugarcane as an alternative crop is well understood. They also recommend at page 38 of the report:

'For the reasons given, we are satisfied that the three conditions laid down by the Fiscal Commission are fulfilled and that the claim to protection of the sugar industry in all its branches except that of refining has been established.'

On this report, the Government of India took action, and I believe levied a duty which was even higher than what was recommended by the Tariff Board. But, with the provision in the present year's Budget of an excise duty of Re. 1-5-0 per maund on sugar, the protection to that extent will be taken away; and the price of Java sugar has also considerably fallen owing to the exchange ratio. Taking all together and the recommendation of the Tariff Board, this is what they say in their recommendation, No. 24:

'Prices have however touched as low a figure as about Rs. 3-8-0 per maund landed at Calcutta ex-duty and it appears to us not unlikely that in circumstances of exceptional competition or for special reasons Java manufacturers might be prepared to land their sugar in Calcutta at as low a figure as Rs. 3-4-0 per maund.'

And they go on to state in recommendation No. 27:

'We propose therefore that the assistance given should be by way of duty. In order to enable the industry to face initial difficulties and to safeguard the position of the manufacturer of indigenous sugar by the *bel* method in Rohilkhand we propose that for the first seven years the duty should be fixed at Rs. 7-4-0 per cwt. and for the remaining period at Rs. 6-4-0 per cwt. The total protection thus granted would be approximately the same as would result from the imposition of a duty of Rs. 6-9-3 for the whole period of protection.'

They also recommend that:

'Should market prices in Calcutta in the future fall below Rs. 4 without duty, a further duty of 8 annas per cwt. should immediately be imposed.'

Therefore, it will be seen, Mr. President, that the protection given is just enough to compete with foreign sugar in the Indian market. But with the imposition of this excise duty, it will not be possible to compete

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with foreign sugar, and nascent industries which have been started after the recommendation of the Tariff Board fully expecting that this protection would enure to their benefit for the next fifteen years, as recommended by the Tariff Board, would be hard-hit and they would find it difficult to make both ends meet with Re. 1-5-0 per maund imposed as excise duty. I quite understand that the financial position of the Government of India is such that they cannot do without imposing further taxation, especially if their Budget is to be balanced; and I am sure hon. Members of this Council would sympathize with that contention, because with the impending Constitutional Reforms, it is but right that the financial position of the Government of India should be such as to appeal to all international markets and show to them that we are financially sound. Therefore, Sir, I quite understand that the Government of India have to find out some method by which their deficit could be made up. But at the same time they also ought to take into consideration the nascent industries of this country. I have put down in the motion both sugar and matches—but I hope other hon. Members who follow me will deal with the question of matches. I am really interested in sugar, because in this Province, I think, the sugar industry is of greater importance than that of matches.

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“With the Mettur irrigation scheme also coming into effect and the Government finding it impossible to collect the revenue that they have imposed in the matter of water-supply with regard to the Mettur irrigation, I think it is in the interest of the Government as well that this alternative crop should be largely grown by the ryots. In the first place, this is a crop which is very easily marketable if there are a number of sugar factories in this Province and, if protection for fifteen years is assured as is recommended by the Tariff Board, I am certain that there will be an inducement to the ryots to grow this alternative crop in preference to paddy because the price of paddy has already fallen and is to a certain extent still falling. I feel sure that it will be in the interest of not only the Provincial Government but also of the Imperial Government to support this industry, because, when there is industrial expansion, and the sugar factories that are built pay large dividends, the Imperial Government will get a benefit by way of increased income-tax. Therefore, I hope that the Imperial Government would find some alternative method for balancing their Budget and keep the protection for sugar at the same level as has been done by the imposition of protective duties after the recommendation of the Indian Tariff Board. With these few words, I propose this resolution for the acceptance of the House.”

* Mr. M. A. MUTHIAH CHETTIYAR:—“Mr. President, Sir, I rise to support the resolution so ably moved by the hon. the Leader of the Opposition. I should thank His Excellency the Governor for the opportunity afforded to this Council for discussing this motion at this time. This excise duty comes to us as a thunderbolt. This is a new and growing industry. The protection given to sugar served as a fillip

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and so many merchants and even non-merchants have taken to this industry. This excise duty is keenly felt by not only the old factory-owners but also by those who have ordered for machinery.

“The protection to sugar is a very old question. Ever since 1920, the attention of the Government of India was drawn to this question. The Government of India first appointed a Special Officer to collect all relevant data and statistics and soon after came the investigation by the Sugar Committee presided over by Mr. J. Mackenna and in its later stages by Mr. F. (now Sir) Noyce. The question placed before the Committee was this: ‘while India should be in a position, as she was in the past, to produce a surplus of sugar for export, why is she obliged to supplement her own supplies by increasing imports?’ But, as is the case with so many reports, the report of this Committee lapsed into oblivion. When the Government began to give support, the Tata’s started an ambitious scheme. Its Rs. 10 share went up to Rs. 50 premium. But within a short time the concern came to grief; and the progress of the sugar industry was for a time retarded.

“The Leader of the Opposition has explained how a protection to sugarcane cultivation and sugar industry will help the ryots as well as the Government—Provincial and Imperial. The yield per acre is much greater than paddy; and if some protection is given, I am sure every one here who is interested in this line will agree that the quality and volume of the industry will be capable of much expansion. But not even the high revenue duties which stood as high as 25 per cent from March 1922 to May 1925, Rs. 4½ per cent from February 1925 to February 1930 and Rs. 6 per cwt. from 1930 to March 1931, could induce the sugar industry to take a firm root in the soil. The Indian Tariff Board went very deeply into this question and recommended that protection should be given to this industry in an adequate manner and that the period of protection should be extended to over not less than fifteen years. The Committee also recommended a duty of Rs. 7-4-0 per cwt. It is very gratifying to note that the import which stood at 9 lakhs of tons in 1930 has come down to 3 lakhs of tons in the year 1933. The value of sugar machinery imported in 1930-31 was only less than 14 lakhs. It, however, increased to 30 lakhs in the following year, to 153 lakhs in 1932-33 and to just under 4 crores in the year 1933-34. In 1921-22, the sugar factories in India produced only 28,250 tons, by 1929-30 in gradual stages the production reached 90 thousand tons. It jumped to 155,000 tons in 1930-31 and the estimate for 1933-34 is somewhere about 600,000 tons. It is now clear how, with the protection given to the industry, it has grown. It is estimated that not less than 60 new ventures have entered the field in the last two years. Hon. Members will certainly agree that the growth in the industry will result in increased revenue to the Government. A vast amount of capital has been sunk into this industry. Particularly in this Presidency nearly all the sugar factories promoted under the era of protection are just only starting production or only just setting up the plant and machinery.

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“ Let us examine the data on which these flotations have been based. They are mainly based on the hopes raised by the recommendations of the Tariff Board and the consequent duty imposed by the Government of India—Rs. 7-4-0 per cwt. It is interesting to note that, when they reported, they envisaged a fall in price of Java sugar and they have said that a further duty should also be imposed. They stipulated that in case the price should fall below Rs. 4 per maund, the Government should immediately follow it with an increase of import duty by 8 annas per cwt. Just as the Leader of the Opposition pointed out, they even mentioned that Java would be able to dump sugar in India at Rs. 3-4-0 per maund as early as 1931; it is significant to note that the present price per maund is somewhere about Rs. 3-2-0. When that is the case, when the price of sugar has fallen much below the level anticipated by the Board, the Indian manufacturer is certainly entitled to be protected beyond the limit laid down by the Tariff Board, i.e., something in addition to Rs. 7-4-0 the ordinary duty and the surcharge of Re. 1-5-0 thereon.

“ Another serious miscalculation into which the Indian Tariff Board was led at the time of their report in 1931 was as regards the ability of the Indian manufacturer to sell his molasses which is a by-product. The Tariff Board thought that he would be able to sell it at Rs. 1-8-0 to Rs. 2 per maund, while to-day he is faced with the dire necessity of spending from his pocket to get rid of his molasses. It must be clearly understood that for every 9 parts of sugar produced there are 4 parts of molasses produced, which have become a bugbear to the Indian sugar manufacturer. This is another argument in favour of the sugar industry to cry for more relief and protection. On the facts I have mentioned it will be proper and more equitable if a further protective duty of somewhere about 8 annas were imposed. The fall in prices of the Java sugar justifies this. But the Government have sprung a surprise on the industry and the cultivators by imposing this excise duty.

“ I wish to say a few words about palmyra jaggery. The preparation of jaggery from palmyra toddy is a widespread cottage industry in Tinnevely and throughout the west coast. I can confidently say that tens of thousands of families are depending for their livelihood on this precarious industry. This jaggery is not used in any considerable measure for distillery and other purposes and there are only a handful of refineries which use this jaggery either alone or in mixture for sugar refining. The refining process is more costly and more difficult, while the work of collection of jaggery in small lots in scattered places is still more difficult.

“ I therefore feel that the imposition of the new excise duty is going to be a crushing burden upon these refineries causing misery and dislocation over a widespread area in these days of intense depression.

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“The Leader of the Opposition said he was leaving the question of match boxes to be dealt with by others. I am afraid I am not also in a position to speak in detail about this industry. It is spreading into a cottage industry throughout the Presidency. This duty of Rs. 2-4-0 per gross or 3 pies per box will be a great burden on the poor man who is already paying more than a due share of the revenue to the Government by way of taxes on many necessities of life. Needless to say, it will be very keenly felt. Hon. Members accustomed to smoking will realize what it will be to pay for one box more than twice we are paying now. I hope that hon. Members will join us in voicing our protests against this excise duty.

“This is a growing cottage industry which calls for support from the Government. We are not opposed to the Government of India levying surcharges on income-tax day in and day out. Last year the Hon. the Finance Member of the Government of India stated that the surcharge was intended to be operative till the 31st March 1934. They are to continue; I feel that it is like directing us to a wall on which it is written ‘till March next year.’ I do not know when we are going to have the surcharge of income-tax removed; but the safest thing to say regarding it will be that it is unlikely that it will be removed. They have gone on like this with regard to income-tax and they have now come up with this proposal. Let them balance their budget by all means; but it is their duty to see that nascent industries are protected and are not put through suffering.

“This Council may perhaps doubt its competency in regard to passing a resolution like this; but seeing that such resolutions have been passed by other Legislatures, hon. Members will support this resolution and bring home the feeling of this part of the country to the Government of India that the excise duty is very inequitable and that relief is needed for the sugar industry.”

* Mr. P. V. KRISHNAYYA CHOUDEARI:—“Mr. President, Sir, at present we have been enjoying a protection of Rs. 9-1-0 which consists of Rs. 7-4-0 being the basic duty and Rs. 1-13-0 surcharge. Thinking that the present charge is not sufficient, the Tariff Board recommended an addition of eight annas to the basic duty. Now, deducting the duty of Re. 1-5-0 from Rs. 9-1-0, the actual protection will be only Rs. 7-12-0 and not Rs. 9-1-0. Even with the high protective duties, it has been found impossible to compete with Java sugar. In his speech the other day at the meeting of Ministers of Agriculture held at Delhi, the Hon. Second Minister stated that one lakh of tons of sugar is being consumed in the Madras Presidency and out of that 50,000 tons of sugar are being imported from Java. Even with this high tariff wall, competition of Java is keenly felt in our Province and it will be still more difficult to compete with Java as a result of this excise duty. At the time when the Tariff Board examined this question, they fixed between seven to nine annas as the cost per maund of sugar-cane. The Hon. the Finance Member has stated in his speech, that any relief that may

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be given is not really going to benefit the cane-grower, but only the industrialist; and I am in entire agreement with him in that statement that this excise duty on sugar is not going to benefit the cane-grower. Now the cane-grower is given three to four annas per maund in the United Provinces and Bihar and not seven to nine annas as proposed by the Tariff Board. So, the margin of profit is taken away only by the industrialists and the factory owners. The policy of the Government evidently seems to be to give a portion of the benefit on account of the excise duty to the cane-growers and that is why they have proposed that out of the anticipated receipts of 144 lakhs by the imposition of the excise duty, seven lakhs would be given to co-operative societies. That is, out of this duty of Re. 1-5-0, about one anna, i.e., 1/21st part, would be given to the co-operative societies. If really Government are going to give relief to the cane-grower by way of bonus or rebate, I welcome such an excise duty. I may even say, it would be a very beneficial measure if out of this Re. 1-5-0 they keep only 5 annas for meeting the cost of collection of taxes, etc., and give Re. 1 for the cane-growers as it would help the cane-growers to a very great extent.

“ Sir, there are about 140 sugar mills in Bihar and Orissa and I think they would be quite adequate to meet the needs of the locality, but so far as the other parts of India are concerned, practically there are no mills at all. So far as the Madras Presidency is concerned, there is only one mill that is working—I mean Parry & Co. If the excise duty is imposed upon the old factories, it will not work as much hardship; but on the other hand, if it is imposed on new factories and those that are going to be started hereafter, it will mean that they may not be in a position to compete with old factories, for the old factories have already realized the capital they have invested and will be in a position to compete with the new factories and kill new enterprises that have been started in unrepresented areas. I may here point out that during the year 1928-29 about 600 lakhs of rupees worth of sugar was produced in this Presidency whereas in 1931-32 it was only 400 lakhs of rupees worth of sugar. That shows there has been a considerable fall in the production of sugar which is mainly due to lack of mills in our Presidency; and the cane-grower also is not in a position to grow cane. My point is that recently there has been an attempt on the part of some Rājas, like my Hon. Friend the Chief Minister, the Raja of Venkatagiri, the Raja of Chellapalli, to start some sugar mills in our Province; and I believe Mr. A. Ranganatha Mudaliyar also has started one such mill. Now, on account of the starting of these mills, the ryots will find a demand for their cane. As a matter of fact, most of the ryots in my part of the country where also cane is being grown, have been finding it difficult to export their cane or take it to a mill, mainly for want of a mill near to them. At present what they are doing is, they convert it into jaggery and sell it, or use it for chewing purposes.

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“ We have also to consider another important point and that is, the Government of India have been getting about ten crores in 1930–31 on account of import duties, but in the 1935–36 Budget they have provided only for two crores, which means even from the point of view of the Government of India, there has been a fall of about eight crores. I am sure the idea of the Government of India is to realize something out of this excise duty on sugar. If they were really anxious to get any money, it would have been better if they had taxed the old factories that had been already producing sugar and which had exploited the cane-growers in other Provinces, instead of taking new ones.

“ There is another point which I would mention in this connexion. About $48\frac{1}{2}$ million tons of cane is being produced in the whole of India, but out of this only $4\frac{1}{2}$ million tons are being manufactured into white sugar and $5\frac{1}{2}$ millions into khandsari, while the rest of the cane is being used in preparing jaggery and for chewing purposes. Now, Sir, if the price of sugar is reduced, I am sure people will begin to use white sugar in an increasing measure. Some people are under the impression that the consumption of sugar has reached its maximum, but considering the fact that about $38\frac{1}{2}$ million tons of cane is being consumed by our people in the shape of jaggery, if we can convert these $38\frac{1}{2}$ million tons into white sugar, I am sure we will increase the consumption of white sugar for the whole of India. This, in turn, will mean more revenue to Government.

“ Then, again, Sir, we are glad to note that the Madras Government have taken up in right earnest the question of an alternative crop for paddy, namely, sugarcane. No doubt we are thankful to the heads of both the Agricultural and the Industries departments for the interest they have been taking in the matter and for doing propaganda work all over the country. The result is that at present large quantities of sugarcane are being produced at present in our Presidency. I therefore request the Government of India, if really they insist on keeping up to the proposed excise duty, to allot a larger proportion to the co-operative societies than what they are proposing to give, namely, one anna.

“ Now, coming to the duty on matches, we are no doubt thankful to the Hon. the Finance Member of the Government of India for proposing to reduce charges on telegrams and reducing the cost of postal envelopes. These two items will only go to benefit more the merchant classes and the educated classes than really the agriculturists. The poor agriculturist is already paying so many taxes and in addition the excise duty on salt also has increased and these things touch the poor man. I therefore request the Government to see that the poor man is not further burdened by the imposition of the excise duty on matches, as this will also tell heavily on the poor consumer. If, on the other hand, the Government of India feel that they will not be in a position

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to balance the Budget on account of the reduction of the duty on matches, I have no objection to levying As. 1-3 for postal envelopes, instead of imposing a duty on matches.

“ With these few words, I support the motion of my hon. Friend, Dr. Subbarayan.”

* Mr. A. RANGANATHA MUDALIYAR:—“ Mr. President, Sir, my hon. Friend, Mr. Muthiah Chettiyar, referred to the fact that no less than sixty new factories have been opened or are under construction during the last two years. So far as our Province is concerned, at least seven factories have been started or are in the process of completion, not to mention about the factories outside the British Province. But, I can say with reference to all these, that not one of them has been started, without a strong belief that the assurance contained in the Government of India taxation proposals already before us would continue for ten or fifteen years. It was, Sir, on the strength of those assurances that each of the new factories has been ushered into existence. So, I feel, Sir, that if the spirit of these assurances is not adhered to, to that extent, it would mean undermining the stability and progress of the new factories. My friend also referred to the policy underlying the contention of the Government of India that the new excise duty will not seriously affect the indigenous industries. I would here like to quote what one of the leading newspapers of India says regarding the implications of this surcharge. It says that the effect of this will be that Java sugar will sell at Calcutta at Rs. 3 per maund plus the protective duty and surcharge of Rs. 6-10-0, that is, Rs. 9-10-0 per maund; while the Indian sugar will have to sell at Rs. 9-12-1, a price higher than that at which Java sugar will be able to sell. So far, Sir, for the preference which is said to be shown by the Government of India to indigenous sugar. He also referred to the difficulty of getting rid of the molasses. The Tariff Board categorically said that these molasses might be assumed to fetch a certain minimum price. Every one knows that there is utmost difficulty in finding a use for these molasses and that it is not possible to get the value which the Tariff Board expected from the molasses. I think the Government of Madras shall have to come to the rescue of the factories established in this Province and try to give whatever help they can, impartially and in an even way, to all of them.

“ Sir, reference has been made to growers of cane and my hon. Friend, Mr. Chowdari, referred to the fact that I am also associated with a factory. As hon. Members are aware, I am not a financier and, if I did take part in this business and try to help in its establishment, it was because of my desire and anxiety and the belief that these factories would some how or other help the sugarcane growers. I may tell at once that financially I am not going to have any benefit, for my share in the profits is next to nothing, because apart from the maintenance allowance I may need, I do not expect to get anything more.

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“ It may be in the eyes of some, a matter of shame that even after being a Minister, I should still be dependent on a monthly allowance for my maintenance. If it is so, I plead guilty to it. When I found that the price of jaggery was getting lower and lower, I thought that the only chance for the sugar-cane growers of my district was to found a factory which could purchase their cane and pay a higher price, higher than what they would be able to get by the process of converting the cane into jaggery. That alone was my incentive to assist in the flotation of the company. I am working out a plan which would enable the grower to get a share in the profits which the factory or the company may get by virtue of an increase in the price of sugar. All these hopes will be dashed to the ground by the imposition of the proposed excise duty. It will be exceedingly difficult, if not impossible, for me to pursue such a policy hereafter. I should have welcomed any measure of the Government by which the cane cultivator would have some profit in the business. On the other hand, the actual effect of their present policy will be to throw the helpless grower into the hands of the capitalist. The interests of the consumer, of the grower, and the factory-owner would be served best by considering that each is dependent upon the other. I am not sure whether the Government of India mean that the sugar refined out of jaggery should be exempted from the excise duty. If that also comes under excise duty, I am afraid many of the jaggery refineries, nay almost all of them, will have to close their business. I may also say, Sir, that there is a feeling of doubt and mistrust on the part of the public as to why this excise duty should be thought of at this juncture. Why should they have just a year or two ago given so much of encouragement with one hand and take that away now with the other hand? Is it because that there is no more industry which could be helped by continued protection? Have they got all that they could get for the British manufacturers and is there nothing more to be done for them? I do not think it right for the Government to be effecting such drastic changes in their policy at such short intervals, which really cut at the root of the new factories, mostly of Indians. I hope that the debate of this House will have some effect on the Government of India and make them reconsider their decision in this matter.”

* Mr. F. BIRLEY:—“ Mr. President, Sir, I very much regret I cannot give my entire support to this motion. I could support a motion to the effect that the imposition of an excise duty at the rates that are now proposed is undesirable not only to this Province, but to the whole of India. The protective duty on imported sugar still remains exactly as it was as recommended by the Tariff Board, namely, Rs. 7-4-0 per cwt. Last year 25 per cent was added to the protective duty for revenue purposes making it Rs. 9-1-0 and as previous speakers have noted, it was understood that if the price of Java sugar fell below Rs. 4 per maund, an additional protection of 8 annas would be given. Had it not been for the fact that Java sugar has already fallen below Rs. 4 per maund, the excise duty would probably have been Rs. 1-13-0

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instead of Re. 1-5-0. But as previous speakers have pointed out, the calculations as explained in the report of the Indian Tariff Board on the sugar industry took into account that in the cost of production, molasses had a sale value at As. 14-6 per maund; now actually molasses has almost no market value whatever so that in the calculation of the cost of production of sugar, it is quite impossible to take anything on the credit side for the sale value of molasses. To that extent then the excise duty is in excess, but it should be a simple matter to adjust the duty from Re. 1-5-0 down to a figure that would be equitable assuming that molasses has no market value. Considering the matter from the point of view of the Madras Presidency—it is argued that there has been no overdevelopment of the sugar industry in the Madras Presidency and I may say at once that it is quite obvious that the two objects of the Government of India in imposing this excise duty are: (1) for revenue purposes and (2) to retard or to put a brake upon the too rapid development of the industry in the country. As the hon. the Mover of this motion said, we should be very careful and we should think very long and carefully before we criticize any measures which will actually produce revenue, taking all material circumstances in the present financial situation into account.

“In the second place, I think it is felt by this House and by industrialists generally in the Madras Presidency that whereas the rest of India has certainly developed the industry much too rapidly, the Madras Presidency has not gone on too quickly and there is as yet no necessity to put a brake on the development of the industry in this Presidency. But unfortunately, the Hon. the Finance Member of the Government of India is unable to legislate for individual Provinces. He has to legislate for the whole of India.

“If the Government of India, as the result of protests which they will inevitably receive from the sugar industry throughout the country, agree to moderate their original proposals in regard to the rate of excise duty, their revenue estimates will naturally be affected and as their present proposals do not include any excise duty on Khandsari sugar, I would suggest that the short fall involved by reducing the rate of Re. 1-5-0 per cwt. to a more reasonable figure should be adjusted by making the Khandsari manufacturer pay equally with the factory owner. It is contended that the manufacturer of Khandsari sugar represents a very poor class who should be exempt from the payment of the excise duty. But I would submit that exactly the same argument applies to the manufacturer of sugar from palmyra jaggery, an industry which supports several lakhs of tappers and their dependents in this Presidency and which would be effectively killed if this excise duty is applied to it. The Hon. the Finance Member's proposals do include white sugar manufactured from palmyra jaggery. I strongly recommend that the excise duty should be made to apply only to cane sugar and not to the palmyra jaggery industry in this Presidency. I am assured by experts that there is no practical difficulty about the exemption

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from excise duty of white sugar manufactured from palmyra, because the processes adopted in the manufacture of sugar from cane and palmyra jaggery are entirely different and are undertaken at different periods of the year, the factories being shut down between the two seasons.

“ Another point which is very important from the point of view of the manufacturer is that the present proposals are to effect on sugar issued from the factory as from 1st April. This should most certainly be amended to refer only to sugar manufactured from that date, because most of the sugar factories carry their stocks in the factories and there are stocks of sugar in the factories which under the present ruling will have to pay excise duty and which were manufactured before the excise duty was even thought of. Just imagine the result of it. If the duty is to apply to all sugar issued from the factories as from the 1st of April, the inevitable result will be that factories carrying stocks of sugar which were actually manufactured before that date must put the sugar on the market during the current month and the result will be chaos in the sugar market. The sugar will be dumped and there will be a glut of sugar in the market. Another important point from the point of view of the sugar manufacturer and the industry in general is that this excise duty is obviously based on the fact that there is at present a 25 per cent surcharge on the revenue duty of Rs. 7-4-0. It should be stipulated in the Bill that this excise duty will only continue to be levied so long as the 25 per cent surcharge exists. Otherwise, the Indian industry will certainly not be adequately protected against foreign competition.

“ With reference to the match industry, it appears that the manufacturers of matches in India had been for some time expecting a duty of this kind. They never anticipated that they would be able to carry on under the very sheltered position which they at present occupy. It was obvious that Government, having imposed an import duty which is actually higher than the cost of manufacture of matches in India, would eventually have to find methods of replacing the revenue which they had lost owing to the duty having been fixed so high that it produced no revenue. I am credibly informed that in the last few years not a single match has been imported into India. Therefore the import duty on matches is a dead letter so far as revenue is concerned. For this reason the local manufacturers expected that sooner or later the Government of India would impose this excise duty. Though this excise duty on matches may be undesirable from the point of view of the manufacturer whom it affects, from the Government of India's point of view and from our point of view as tax payers it is necessary to replace the lost revenue. I hardly think therefore that the excise duty on matches can be said to be undesirable. It is only just as undesirable as any other tax! I fear however that a duty of Rs. 4-2-0 per gross will be found to be so high that it will reduce the consumption of matches to such an extent that not only will the revenue which the Government expect to get from matches

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be very much smaller than their anticipations, but the industry itself will be seriously injured by a reduction in consumption caused by this heavy duty. Another probable effect of this high rate is that it will kill the small man. Under the present sheltered conditions which the industry enjoys the small manufacture has been benefited. If the excise duty is levied at the proposed rate and if the manufacturer is made to pay cash for the excise duty, taking into account the fact that he sells his matches on credit, it will mean that he will have to double his capital immediately. The small manufacturer cannot do this and I am afraid the inevitable result will be that he will go out of business."

* Diwan Bahadur A. APPADURAI PILLAI:—" Mr. President, Sir, the motion before the House is a very important one from the point of view of the cultivator and also from the point of view of the industrialist. The House is already in possession of the information regarding the present basic protective duty as well as the surcharge hitherto levied by the Government of India. For a ton of sugar imported into India, the present rate is Rs. 181-4-0 including the basic protective duty which is Rs. 145. Twenty-five per cent of the surcharge on this basic duty of Rs. 145 makes it Rs. 181-4-0. At this rate Java has been able to export a great deal of sugar into this country and make a profit. Java sugar as seen from the reports published in the papers sells at Rs. 272-8-0 per ton at Calcutta. That means Java actually gets Rs. 91-4-0 per ton of sugar and from this sum it is able to make a profit. If, Sir, an excise duty of Re. 1-5-0 is imposed on every hundredweight of the locally manufactured sugar, it means that the local manufacturers will have to pay Rs. 26-4-0 per ton of sugar produced by them. It may be mentioned in passing that the Government of India, have made it clear that they would increase the protective duty from Rs. 7-4-0 per hundredweight to Rs. 7-12-0 and fix the excise duty at Rs. 1-5-0 per ton thus retaining the original figure of Rs. 181-4-0 as a tax. Some of the persons who are actually engaged in the manufacture of sugar in Southern India expect that even after paying the excise duty the local producer will be in a position to make a fair margin of profit. The Indian sugar sells ordinarily at Rs. 10 per ton lower than the Java sugar. Java sugar is considered superior to Indian sugar in the matter of colour, fineness, etc. This is apparently due to the fact that Java has been engaged in the manufacture of sugar for the last so many years, and consequently she is perhaps able to manufacture a better stuff than the Indians. Naturally this accounts for the lower selling price of Indian sugar. If Java sugar sells at Rs. 272-8-0 per ton Indian sugar must sell for Rs. 262-8-0. Now the question for consideration is, whether our manufacturers after paying the excise duty of Rs. 26-4-0 per ton, will be able to get a profit. Sir, some local producers assured me that they would be able to do so. But will there be competition from Java in spite of this protective duty and surcharge? I am informed, Sir, that it will be possible for Java to place sugar in India so long as the price does not fall below Rs. 250 per ton, while it will not be possible for the Indian manufacturer freed from the

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protective duty to make a profit. The point is that the excise duty as contemplated by Sir George Schuster works out exactly at 10 per cent of the sale price. This 10 per cent, if it is taken out of the hands of the Indian producer, will affect the managing agents. Between 10 per cent to 12 per cent dividend will also be available for the share-holders, but the managing agents who have been making a great deal of profit in connexion with the manufacture of sugar will not hereafter get it. It is they who will be hard hit by the proposal to levy this excise duty. The cane grower will not be affected since the Government of India contemplate, side by side with the imposition of the excise duty, the introduction of an Act to safeguard the interests of the sugarcane growers by fixing a minimum price for sugarcane.

“ The proposal for the time being is to allow discretion to the Local Government in the levy of price. If this Bill is to become law the sugarcane growers will be protected while the managing agents will be deprived of their income. To that extent the Bill will be beneficial; for it does not encourage the managing agents, the middlemen, to appropriate a great deal of profit, which legitimately ought to go to the general tax-payer or the manufacturer or the sugarcane grower. 12-15 p.m.

“ So far as Southern India is concerned, sugar industry is in its infancy. The Government of India started a series of experiments and research in Coimbatore, and they attached a great deal of importance to the cultivation of sugarcane. We have heard in season and out of season that it could be grown as a substitute for paddy, and as a matter of fact, very recently we have been witnessing people taking to the cultivation of sugarcane in large numbers. This is clear from the statistics of crop outturn. Hitherto the acreage under the cultivation of sugarcane on an average has been 100 lakhs, and it has now risen to 120 lakhs. Of late side by side with the imports from Java, there has been an increase in the cultivation of sugarcane, as people have come to realize that paddy is not so remunerative as it used to be before. After having done so much to divert the attention of the ryots to sugarcane cultivation, if the Government of India are to levy excise duty on indigenous sugar surely it will discourage the extension of cultivation of sugarcane. I said in the beginning that the sugarcane growers would be safeguarded with the fixing up of a minimum price. Even if this is done, the moral effect of the proposed duty will be to discourage sugarcane crop. It may be within the knowledge of several Members of this House, that Government have for some time been carrying on very valuable experiments at Coimbatore; one of which was that of grafting sugarcane to cholam stock. They found that this new variety grows quickly, it takes less time, it takes less water, it involves less cost in crushing while it is rich in sugar contents and that the yield is more. Seeing these experiments, some capitalists have come forward and have sunk their money in the development of this industry. Is it possible to assume that this excise duty will have no effect whatever upon them? As we all know, Sir, sugarcane has become a lucrative crop in this

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Presidency quite recently. Besides, the consumption of sugar in this Province is about 50,000 tons a year. The question is how this demand is met. There is only one factory at the present day in the whole of the Presidency, and that is at Nellikuppam. It is turning out something between four to five thousand tons of sugar. There are two refineries—Samalkot and Aska, but the quantity of sugar produced is negligible. It is expected that from the proposed sugar factory of Mr. A. Ranganatha Mudaliyar at Hospet it will be possible to put on the market some four to five thousand tons of sugar, and thus at the utmost, the output of indigenous sugar will be only ten thousand tons. The balance of 30 or 40 thousand tons of sugar will continue to come from Java unless the Madras factories make up the supply. So, Sir, until a sufficiently large number of capitalists are encouraged to float companies for the manufacture of sugar and until a sufficiently large number of acres of land are brought under cultivation for sugarcane, it is better the Government of India refrain from imposing this excise duty. I am sorry I am taking more time than I ought to do.

“Coming to ‘matches,’ Sir, ‘matches’ have a history of their own. The match industry has been going on for a very long time in this country, for the simple reason that it is a very easy process. The House will be pleased to hear that match is one of the industries which is being carried on as a cottage industry in this country. If one goes to Vellore he will find scores of houses engaged in match manufacture, simply because the process is very easy and the industry brings in a small income. The wood necessary for splints and veneer comes from the Malabar and Travancore forests.”

* The Hon. the PRESIDENT:—“As a very large number of hon. Members are anxious to speak on the resolution and as there is only one hour before us, I request the hon. Member to conclude his speech soon.”

* Diwan Bahadur A. APPADURAI PILLAI:—“Sir, there is an import duty of 15 per cent on matches. In order to escape this duty the Western India Manufacturing Company have established a number of match factories in some of the Provinces, and one such is located at Tondiarpet, where Wimco matches are being manufactured and sold. I have match boxes prepared by them in my hand, which sells at Rs. 3 and at Rs. 2-4-0 per gross, as compared with Re. 1-4-0 per gross boxes of the indigenous make. In other words we get the Wimco match-box at 3 pies per box now but with excise duty it will come to 6 pies per box, which I need hardly say will be prejudicial to the interests of the poor and the lower middle classes. I find from the Government of India proposal, that they are not willing to exempt matches produced on a cottage industry basis from taxation. In quite a number of places in Coimbatore, South Arcot, North Arcot and Chittoor districts the people have been carrying on this cottage industry. And if the duty of Rs. 2-4-0

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is to be imposed it will mean 3 pies on every box, and when it comes to the market it will have to be sold for 6 pies. Thus I need hardly say that the imposition of the excise duty will hit the people very hard and will kill the cottage industry. It may be that the Tariff Board has recommended such a procedure. But it is up to the Government of India to see that such a drastic step is not taken. For these reasons I have great pleasure in supporting the motion brought forward by my hon. Friend, Dr. Subbarayan. (Opposition cheers.)”

* Rao Bahadur T. A. RAMALINGAM CHETTIYAR:—“ Mr. President, Sir, if I support the motion before the House, it is on two grounds and only on those two grounds. The first ground is this. I am sorry that of all the goods on which a surcharge is collected, sugar should be selected for this excise duty. And excise has got an unfortunate history in this country. It remains much longer than is really wanted or necessary. We are surprised to see that of all industries, sugar industry should have been chosen for this excise duty. If on the other hand Government had said that they were going to levy an excise duty on all goods on which a surcharge is levied, probably there would have been then less ground for complaint.

“ My second reason for supporting this resolution is this. Even the Tariff Board has said that the agriculturist should get 7 annas per maund of sugarcane supplied to the factories. But at present he does not get anything like that. He gets only about 50 per cent of it in some places. So, Sir, there has been a persistent demand on the part of the agriculturists that a minimum rate should be fixed for the sugarcane supplied to the factories. Only two months back, by the courtesy of the vice-Chairman of the Indian Agricultural Research Council I was able to attend the sittings of the Sugar Committee of the Council for two or three days. There I found an insistent demand from ryots representatives that it is high time that Government passed legislation fixing a minimum price on sugarcane supplied to the factories. Now the effect of this excise duty will be to put off fixing the price for supply of sugarcane to factories. For the factory owners having to pay this excise duty will naturally complain that this is not the time when any legislation should be passed with reference to the fixing of price on sugarcane. So it seems to me that the agriculturist is indirectly affected by this excise duty. This is probably the strongest reason against the imposition of the excise duty. At the same time I should warn the people that they are multiplying factories in a very, if I may say so, thoughtless manner. It has been said that most of the factories that are being started are uneconomic units. The Tariff Board has said some time ago that an economic unit will be a 400-ton factory. But what do we find here? We find factories started with a capacity of 50 tons; and only some are 150-ton factories. These, according to the Tariff Board, will be uneconomic units. Most of them are growing under a system of protection, and they will insist on

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protection even when the time comes when there will be no need for such protection. So, Sir, I think that a warning is necessary that the factories which are projected, especially in Southern India, are uneconomic units and it is not very safe for them to come into existence. On the other hand I should say that so far as conditions in Southern India are concerned, it is cottage factories that have got a better future. I mean factories like those existing in Rohilkhand and elsewhere and they are likely to work successfully. We have tried the experiment in some places. We find that the cost of sugar produced per pothi, i.e., 10 maunds came to Rs. 26 or Rs. 26-8-0 at the beginning of this year, but the price that could be fetched in the market was Rs. 30. So there was a margin of between Rs. 3-8-0 and Rs. 4 for the agriculturist. Establishment of Khandsari factories seems to be the fair way of dealing with this question so far as Southern India is concerned because there are not many places in which we have got a sufficient supply of sugarcane to maintain what is called the economic unit, viz., 400 tons per day of which the Tariff Board has been speaking. It seems to me that it is clear that the Government should not impose these duties on cottage factories in villages wherever it is possible to have them. So, Sir, I would point out to the Spokesman of the European Group who said that duty should be imposed on Khandsari sugar and the duty on factory sugar should be reduced that it is well known that the agriculturer is producing sugar at the Khandsari factory at a cost higher than that at which it is produced in bigger factories. It is also well known that the Khandsari sugar fetches something less than what the factory sugar fetches in the market. Therefore to say that excise duty should be revised in such a way that the larger factories should pay less and that Khandsari factories should also be charged is a matter which nobody in this Council will accept. I may also say, Sir, that with the new method of utilizing the activated charcoal as the agent for the manufacture of sugar found in the Agricultural College for the production of white sugar probably we are going to have a new method of manufacture which will be better than the Khandsari method and much cheaper. In this method of using activated charcoal we will be able to produce as good a sugar as we can produce from the old method of making white sugar. I have seen that method tried in one of the villages and I found that the sugar that we got was very much like Bura or white sugar as we used to call it. This sort of sugar may be used by a larger number of people than the other kind of sugar.

“So, Sir, I would point out that the proposals of Mr. Birley are likely to affect the agriculturists in the manufacture of sugar by the country method and such proposals have to be looked upon with disfavour. I want to warn this House on this point because the hon. Member spoke that excise duty should be revised in such a way as to affect the Khandsari sugar also. I think we should make it clear in this House that we will not be a party to any such proposal. With these few words I support the motion brought forward.”

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* Rao Bahadur Sir A. P. PATRO:—“ Sir, it is a very difficult case. I generally agree with what the hon. Mr. Birley said in regard to this resolution. But before going into the merits of imposing excise duties, I would call the attention of the House to two preliminary points for their very careful consideration. Excise duties are intended to help two Provinces. Excise duty on sugar is mostly intended to make up for the deficit in Budget as the Government of India propose to pay to the Bihar Province. Distress in Bihar is universally accepted, but the Government of India think that by raising this excise duty on sugar they will be able to make up their Budget in such a way as to provide for the urgent needs of Bihar. Then the duty on matches is intended to help Bengal, Bihar and Orissa and Assam. Part of the excise duty on matches will go to improve the revenues of Bengal, another part to Bihar and Orissa and the rest to Assam. Export duty on jute is the central source of revenue. That source is to be given up and in its place they want to substitute these excise duties in order to make up the deficit. The question that will arise is whether it is proper that Government of India should give up their central source of revenue and then ask other Provinces to make up for that deficit and lose their source of revenue. The other question that will arise in this connexion is the relief to be given to Bihar. No one disputes that Bihar requires relief. When this Province was placed in a similar situation and when appeals were made to the Central Government to give relief to it, the Central Government raised the bogey of Meston Award and said that when that award was accepted by all, the Government of India would not be able to come to the relief of this Province. I refer to an instance which took place in our own Province in 1924 when there was great damage in many parts of this Province owing to heavy floods, this Government approached the Central Government for relief by a certain amount of financial help. This Government is said to have been told that they should cut their coat according to the cloth, that they could not override the principles of the Meston Award, that they must rest content with it and that, therefore, they must do what best they could do. Now out of the liberality of the Government of India's policy to-day, they are able to realize in addition to the central source of revenue some other revenues and also are able to give relief to Bihar, not from their own funds, but from excise duties levied throughout India. In connexion with this the Hon. the Finance Member of the Government of India has said that they make half grants to the Bihar Government to rebuild Government buildings and to repair canals and irrigation works, while the Bihar Government should find the other half. In other words it is an ordinary grant-in-aid that is given to Bihar from out of the funds raised from excise revenue. Now is it open to the Government of India to aid a particular Province, not from its own funds or from its own resources, but changing the source and charging the other Provinces to bear that burden? So far as jute is concerned, no doubt we find in the distribution of the Provincial and Central

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subjects, power is reserved, to the Central Government, in the Devolution Rules to transfer a Provincial subject to a Central subject and vice versa. Apart from that, the question which I raise in regard to this is whether the Central Government in the present instance can charge the whole of India for the sake of benefiting a particular Province. The Hon. the Finance Member of the Government of India has said that the circumstances of Bengal are very special, that owing to unexpected conditions prevailing in Bengal that Province has not been able to balance its budget—not only balance it, but end it with large deficits—that it has been so for the last two or three years and the accumulated deficits alone come up to 5 crores of rupees and that therefore it is an urgent necessity for the Government of India to come to the relief of Bengal. The Hon. the Finance Member of the Government of India has also stated that the Bengal Legislative Council has tried all the sources available for the purpose of raising revenue but failed and that therefore it is a case made out for the intervention of the Government of India. I am afraid that this is an over-estimate on the part of the Government of India. Let us take the land revenue or the excise policy followed by the Government of Bengal and compare it to that followed in our own Province. Do they follow all the conditions that are necessary for securing as much revenue as possible? They do not. A large amount of revenue could be realized by the adoption of correct methods of collecting revenue. Therefore while sources of revenue are available to particular Provinces, they are not utilized adequately, either for political reasons or on other grounds. Therefore such Provinces are not entitled to derive any benefit from other Provinces for the reason that they do not help themselves. This is a very serious question because it is one which may arise to-morrow in regard to other Provinces. As I have already mentioned, when this Province approached Government for relief being given on account of damages caused by floods, that Government refused to do so. If there is any change of policy now on the part of the Government of India, it has to be announced that hereafter Meston Award will no longer be carried out. To that extent no doubt it was stated in the Round Table Conference and adopted in the White Paper. It is admitted by the British Government in their proposals and it is made obligatory on the part of the Federal Government to render help to Bengal and Assam from out of Federal revenues, namely, jute.”

12-45 P.m. Mr. ABDUL HAMEED KHAN:—“ Are we now discussing the whole of the Imperial financial policy or only the policy of imposing excise duties on sugar and matches, Sir? ”

* The Hon. the PRESIDENT:—“ The hon. Member is evidently trying to show the far and near causes of these duties.”

Mr. ABDUL HAMEED KHAN:—“ More far than near, Sir.”

Rao Bahadur Sir A. P. PATRO:—“ My hon. Friend will not have the good sense or the reasonable spirit to wait till a Member completes

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his speech. I would not characterize his interruption just now otherwise than as that it shows that the hon. Member should learn better political attitude.

“ All that I have been trying to make clear is that these two duties are sought to be imposed by the Government of India, not for their own purposes, but for the purpose of helping some provinces. This Council, if it is reasonable enough to understand the whole question, will see that such a course amounts to throwing the Meston Award into the melting pot. This point is more important than the point about making 20 per cent and 40 per cent profits. The sugar duty has been imposed by the Government of India with a view to help Bihar. The resolution before the House says that the duty is undesirable and prejudicial to the interests of this Province. We will have to consider the question on its merits. Sir, I do not think that the duty is very undesirable, nor is it very prejudicial to the interests of the Province. Of course any excise duty will be considered undesirable by the people who are affected by it. Now what are the facts? In 1930-31, the duty on imported sugar yielded a sum of Rs. 10 crores and to-day the Budget shows an income of only Rs. 2 crores under the same head. For the next year, the amount is estimated to be much less still. Therefore we have got to take stock of things and see what is this fall due to and who is profited by the duty—the producer or the consumer. We have had reports from Northern India that the sugar factories in that part of the country have been declaring 40 and 50 per cent dividends. These high dividends have attracted other people to this industry with the result that many mushroom mills have been established and there is a danger of over-production to such an extent that the whole industry will be spoilt. What has happened in the case of the rice-mill industry in our own Province and the bus-transport industry threatens to happen to the sugar industry also. In the case of the rice mills what happened was, attracted by the good profits made by the early millowners a number of mills were started, one for a village or group of villages, with the result that later on many of them had to close down for want of work. There is the same danger of over-production of sugar which the Government of India have to guard against. It has been suggested that so far as Madras is concerned, we have only a few factories; but let us look at the question the other way. Out of 48 million tons of cane grown in India only one-twelfth of it goes to the factory and all the rest is consumed in the making of jaggery and in other ways. It is only a very small proportion that goes to the refining factory. Therefore when the factories are able to declare 40 and 50 per cent dividends on account of these protective duties, and when the Government is losing enormous revenue, we have to see whether the cane-grower is benefited in any way. The Hon. the Finance Member has said that there are three main considerations with regard to this sugar duty. The first is the

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danger of continuing a stimulus which is in excess of what Government decided to be necessary as a measure of protection. The second is the need to insure that the agricultural producer gets his full measure of benefit out of the policy of protection and the third is the replacement of the revenue losses which represents the cost to the general public of India of giving protection to a limited number of manufacturers. Therefore, Sir, we have to consider whether this sugar excise duty gives any protection to the cultivator. It has been pointed out that, if we check the unhealthy competition that may arise among sugar factories, the underselling and underbidding by factory may not arise, it will have the effect of keeping up cane prices although a minimum price is fixed for cane. But unless a minimum price is fixed at which a ton of cane can be purchased by factories, the producer will not at all be benefited by this duty. As regards the consumer, the small factories can all combine together, eliminate competition and thus keep up prices. Therefore, from the point of view of the consumer as well as of the producer, it is necessary that there should be some control over the production of factory sugar so that over-production may be avoided. The excise duty, in my view, should not be as high as it is proposed now, but should be reduced. Then it will not be prejudicial to the sugar industry in this Presidency. The reason is this. I have been discussing this question of sugar duty with some Indian friends and they told me they expected a margin of profit of Rs. 3 per bag of 168 lb. The imposition of the excise duty will reduce that profit by Re. 1-5-0, but there will still be a profit of Rs. 1-11-0 per bag. Therefore, there is absolutely no fear that the industry will suffer, that the nascent industry will suffer since there will be a profit of Rs. 1-11-0 a bag. The industry will continue to thrive if only the people concerned manage things in a businesslike way. If they have business acumen, business capacity and experience, they will thrive. A good deal of circumspection should be used to survey and find out a proper place for the location of the mills. There should be plenty of raw materials available near at hand, and the place should be easily accessible by rail or by canal. The industrialists should study the markets and find out where their produce will fetch the best price. If all these things are done, they will not come to grief. Therefore, as I have said before, I do not see any great danger to the sugar industry from the excise duty.

“Then there is another point. Out of the sums collected by way of this excise duty, one anna in the rupee is to be given as grants-in-aid to sugar producing Provinces to enable them to start co-operative societies to help the cane-growers to get the best price for their cane. It is very essential that in considering the effect of this duty, we should not forget the actual cane-cultivator and the consumer. The capitalist may cry hoarse that he is not making the same large profits he was making before the imposition of this duty, but these large

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profits did not in any way benefit either the consumer or the cane-grower. Therefore, every care and attention must be paid to see that the interests of the cane-grower is looked after. From the way in which the duty has been proposed in the Legislative Assembly, we can be sure that proper steps will be taken to safeguard the interests of the cane-grower.

“ As regards the excise duty on matches, I do not think we need be very anxious about it in this Province. All that we have got in the way of match industry in this Province is in the hands of foreigners. In order to avoid the import duty, foreigners have come here with their capital and started factories. The biggest factory here is financed by foreign capital and it is not an indigenous factory. Again, Sir, it can hardly be a cottage industry. The Hon. Sir George Schuster has stated in the Assembly that it is not correct to characterize this industry as a cottage industry. The mere dipping of the splints in the chemicals and the pasting of papers on the boxes in the cottages will not make the industry a cottage industry as all the other processes are gone through in a factory. Therefore, this industry is hardly a cottage industry in the sense in which it is understood generally. Therefore the excise duty will only affect foreign companies which have come over to our Province and started factories. And there are not many factories even which are affected. It is said that on the West Coast there are many factories, but they are most of them in Travancore and Cochin and only a few in British India. Their cases may be dealt with separately according to the treaties between them and British India.

“ So far as the sugar excise duty is concerned, I should say it appears to be excessive and might be modified if possible. But when I say that, I must also say that it is not quite prejudicial and that it is not undesirable. The duty is desirable in order to afford relief to distressed Bihar. It is desirable, that the Provinces should contribute to the relief of the Central Government when the Central finances are not in a good condition. But I have raised a preliminary question which is a constitutional question of importance and has to be considered by the Government of India before they finally dispose of this matter.

“ In regard to the match industry, nobody will suffer even though there is an increase of a pie or two in the price of matches. If the money raised is going to relieve a distressed Province which is practically at the breaking point, I do not see why we should cry hoarse over it, especially when the match industry is not going to be materially affected by it. I say it will not affect prejudicially the interests of this Province, as the industry is mainly—I use the word ‘ mainly ’ very carefully and advisedly—mainly financed by foreign capital and conducted by foreign agencies in South India.”

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* Mr. SAMI VENKATACHALAM CHETTI:—“ Mr. President, I consider it is a matter of the utmost importance that this Council has been enabled to discuss an important inter-provincial matter or a matter of national importance. Sir, the time has come when the industrial and economic policy of the Government of India will become more and more the subject of discussion in the Provincial Councils, and inter-provincial jealousies will be the order of the day. Sir, this Province has sacrificed a lot on account of the protective policy of the Government of India for the purpose of encouraging Indian industries. We have done so on the high ground of benefiting the country and the nation as a whole. But I should say, Sir, that other Provinces have taken very great advantage of our willingness to help in this big national work. When the time came for encouraging some small industries which had just been started in our Province, it is a pity that the Government of India, advised and dominated perhaps by Members of Northern Indian Provinces, treated the claims of Madras in a cavalier and light-hearted manner. The Madras Government is partly responsible for this continued neglect of the economic condition of this Province, because successive Finance Members were zealous of attempting to balance the Budgets with increased taxation and reduced expenditure on projects which would improve the economic condition of this Province. Unfortunately our Finance Members have been more attentive to see that more money is collected than that expended upon nation-improving works. Therefore, the Government of India would always look towards the direction of the Madras Government for making up their deficits and for levying unnecessary contributions on the revenues of this Province. We have paid a lot of money by way of Provincial contributions on account of our savings and on account of continued increased taxation which we exact from our poor peasantry. Even after these contributions have been stopped, we have been consistently balancing our Budgets by starving Part II Schemes and by starving all big irrigation and other developing projects. The Government would now again take this opportunity of punishing the Madras Government and the Madras people for their economic way of doing things. Therefore, the Madras Presidency is asked to agree to the protection that is being given to the industry that is flourishing in Northern India and by which Northern India alone would benefit. Apart from that there is the big question which we have to face one time or other, namely, the imposition of excise duty on sugar and matches; this is a thunderbolt as described by one hon. Member of this House. I suppose many of us have not forgotten the day when we were told that the sugar industry has got a very bright future and that this Province, which has been backward in this particular matter, may take this occasion of developing the sugar industry to its fullest extent. So much so, persons who never thought of this industry, turned to this seemingly profitable investment and raised big capital for launching upon sugar industries and factories. It is a pity that even before the completion of some of these factories, even before some factories

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set to work, the Government of India have imposed this excise duty and it would practically kill the industry. Sir George Schuster evidently forgot that he was anything but fair to the Madras Province in imposing this excise duty which practically hits the Madras Province more than any other Province. It is well known that Bihar and some portions of Northern India are well up in sugar industry. In Madras it is only just now that we are trying to raise our heads with regard to this industry and develop it. Sir George Schuster seems to justify this imposition on two or three grounds. In the first place he doubts whether the large difference between the value of the imported sugar and the manufactured sugar is going to the benefit of the cane-grower. Therefore he would pass some legislation in order that the cane-growers' interests are not jeopardized. I am afraid that Sir George Schuster is banking upon the indifference of the Madras people to settle industrial questions. It is difficult to believe that any legislation would help the cane-grower to the fullest extent. After all, trade questions will have to be decided by competition. Whatever may be the legislation, it will be easy for people to circumvent these rules and laws and find a sale for their produce. One is not going to wait—nor will he have the stamina to do so—till the operation of the laws and regulations will bring him the price fixed under law. It is easy therefore to get from the purchaser the required quantity at a lower price than that the law would impose. Therefore I do not believe that any legislation is going to help the cane-grower. If Sir George Schuster thinks of this legislation in order to give the full benefit to the purchaser, it is only to get the support of the cane-grower for this imposition of excise duty. Granting that the sugarcane-grower will get the full price laid down by law, what does it amount to when the manufacturer is unable to get the full price for his sugar and when he is obliged to pay the full price to the cane-grower; no other effective method is necessary to kill that factory. It will be doing a double wrong to the factory owner, if he is asked to pay the full price that is laid down, to the cane-grower and if he is not able to get the fullest benefit for the manufactured article on account of the imposition of this excise duty. The Tariff Committee recommended a particular rate having regard to the rate prevailing in Java for the imported sugar. It is well known that the price of this article in Java has fallen considerably down from that that was taken into consideration by the Tariff Board when fixing the rate. Sir George Schuster justifies this imposition on the ground of the necessity to make up for the loss of customs revenue which resulted from the levy of very heavy protection duties against the imported sugar. I am afraid that Sir George Schuster has forgotten what he said some time ago. He said that the loss of customs revenue on account of imported Java sugar, was more than compensated by the increased duty on the imported machinery which were purchased for these factories. If there is any balance, that will be compensated by the income-tax which these factory-owners will have to pay. Therefore the bogey that is raised now by Sir George Schuster that the loss

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of customs revenue should be compensated by the sugar manufacturers cannot stand to reason; he, of all persons, must have known that the loss was more than compensated by other means, namely, by the imposition of duty upon machinery and by increased income-tax. Sir George Schuster says he is speaking on behalf of the consumer. If the rate on sugar before the war and to-day is taken into consideration, it cannot be said that the consumer has been much affected. The pre-war price was Rs. 10-8-0; to-day it is considerably lower. Therefore the specious plea that Sir George Schuster puts forward on behalf of the consumer cannot at all be taken into consideration. It is a pity that Sir George Schuster, in his zeal to please the other Provinces at the expense of Madras which is at a very great distance from the seat of the Indian Government, has forgotten even the interest of the Government. The Madras Government have launched upon big irrigation projects involving large sums of money and it is desirable that those projects should be able to pay the interest which the Madras Government have to pay to the Central Government for loans. If the sugar factories come to a stand-still on account of this unwise policy, even the Government and the Province stand to lose a considerable amount.

“Moreover, in the matter of these excise duties and customs I am afraid the Government of India forgot the existence of Indian States which are still independent of the Government of India in such matters. The result of levying the excise duty on British Indian commodities, while the Indian States are free from this duty, can be easily imagined. It will be disastrous; there will be considerable smuggling and we must have increased establishment for preventing smuggling and other perturbations in the ordinary avocations of life.

“It is pleasant news to hear that the Madras Provincial Delegation will be meeting the other provincial delegates to discuss several economic matters affecting the Provinces and I am told that that Delegation will consist of the Hon. the Revenue Member, the Hon. Minister for Development and the Finance Secretary. Wise men as they are, I do not dispute their authority to discuss these matters; but I should very much like that they should be assisted by persons who are either in the commercial or the industrial line. They need not be delegates to the Central Delegation; they can be at least advisers behind the benches to explain the difficulties which the industrialists and commercial men suffer under.

“One more point I would like to mention which has been referred to by one or two speakers, that is with regard to the amount realized by the sale of the waste-product molasses. In Java it may fetch a sum of Rs. 1-8-0 per maund; in India it has no value at all. Apart from the question of molasses, there is the question of railway freight. as against the steamer freight from Java to any port in India. The distance between Java and Madras is 2,500 miles—to any port in British India. The steamer freight for this distance of 2,500 miles is equivalent to the railway freight for a distance of 150 miles only. If

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sugar manufactured either at Bihar or in Northern India is to come to Madras—say about 1,000 or 1,500 miles—the railway freight would be 10 times the steamer freight from Java to any port in India. That is a factor which is very much against the Indian industries. Until the factories and industries in the Madras Presidency come up to the level of manufacturing sugar required for this Province, we have necessarily to depend upon the sugar manufactured in Bihar and Cawnpore. Therefore the amount that Madras consumer pays to the imperial revenues either by way of railway freight or by way of excise duty or by additional income-tax or by way of duty on imported sugar will be greater than any number of items which are contributed by other provinces to the central revenues. All these things are sought to be justified on the ground that we should render succour to Bihar in her very sad plight. I do not know whether Sir George Schuster wants to make Madras appear cruel and not sympathetic to Bihar if we should be haggling over this excise duty. It is not a question of giving a subvention or giving a contribution to Bihar in her sad plight. If that should be the case, I may say the people of the Madras Presidency have already contributed to the extent to which their wealth and their economic condition allow. If necessary, and if permissible, perhaps even the Government of Madras may contribute a certain sum of money for this purpose in view of the sad plight in which Bihar is now placed. But, surely, that ought not to be put as a reason for settling an economic question, a question which would permanently kill the nascent industries of this Province.

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“Sir, I am sorry in this connexion that the Hon. the Chief Minister did not rise to speak. Having taken some interest in launching a big sugar industry, I dare say he would have been in possession of many facts and arguments which could be adduced against the imposition of an excise duty on sugar. And surely, he would have put those facts and arguments much better and more impressively and they would certainly have carried more weight with the Government of India when this matter comes up for discussion.

“With regard to matches, Sir, I have only got to say one or two words. I understand that the average consumption of matches by an individual is about half a gross per year, and perhaps for a small family it may be a gross per year. Therefore, an additional duty of Rs. 2-4-0 on a gross is not going to individually affect the people. Therefore, it is not from the consumer's or the user's point of view that I object to the imposition of excise duty on matches, but it is from the point of view of the industry. Match manufacture has become a cottage industry in Southern India. There are very many families who have taken to manufacturing matches. Of course, there is a large importation of foreign-manufactured matches also. The Burma company and the Wimco are two competing firms in Southern India, and I do not think the profits of these two companies on account of severe competition are very much; but the difficulty of levying the excise

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duty on matches without raising the duty on foreign matches will be that there will be an invasion of foreign matches in the near future into South Indian ports. Japan is always waiting to dump her goods at any cost on us, and it is only a very high protective duty on foreign matches that has not encouraged such imports. It is not quite accurate to say that there has been no import at all of foreign matches. There has been some. As a matter of fact, we see here and there Swedish matches; but ordinarily those matches cannot compete with Indian matches on account of foreign import duties. Now, even that is discounted by the imposition of the excise duty, and naturally the tendency will be that you will have to pay more and more for matches, thereby killing the industry in the big factories and in the small homes. From that point of view, I consider this excise duty as a very serious danger to the small cottage industry in Southern India.

“One has got to infer both from the speech and the action of the Hon. the Finance Member of the Government of India that the interests of Madras are least considered by him. Apart from the somewhat strong language used by our hon. Friend, Diwan Bahadur Ramaswami Mudaliyar, in the Assembly, there is certainly a good deal of truth in his criticism about the other Provinces. Whenever Bombay wanted anything, whenever Bengal wanted anything, they created such a ring amongst themselves that they were able to extract something from the Government of India. But, so far as Madras is concerned, it has always been the Cinderella of the Central Government and it is surprising that the Central Government which is presided over by no less a person than His Excellency Lord Willingdon who has been the Governor of Madras should continue to adopt the same policy now. I hope, Sir, that the Delegation which is going to start from Madras will impress upon the Government of India the keen feeling and the sense of disappointment of the Madras Province in regard to the taxation proposals of the Government of India and also in regard to the rejection of the legitimate and reasonable and proper requests of this Province.”

* The Hon. Sir HOPETOUN STOKES:—“Sir, as the House is of course aware, the subject of this resolution is a Central subject which falls within the purview of the Central Government and the Legislative Assembly. The Government have, however, felt that on a matter of this kind, it would be desirable that the House should have an opportunity of placing its views on record. They have however decided that the Government themselves should be neutral on this subject, and the proceedings of the House on this subject will be forwarded for the consideration of the Government of India. I therefore do not propose to take any part in the debate on the merits of the question beyond explaining to the House and to you, Sir, the attitude which the Government have proposed to adopt.”

* Rao Bahadur A. T. PANNIRSELVAM:—“Mr. President, Sir, clubbing together in one and the same resolution both the excise duty

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on sugar and that on matches, appears to me to cloud the issue. The circumstances attendant on the two industries are altogether different. For one thing, sugar is dependent essentially on the cultivation of sugarcane in agriculture; while the question of matches and match-making stands on quite a different footing, all its own. The manufacture of sugar can be carried on only in large factories set up with a fairly large capital, while matches can be manufactured, as pointed out by certain Members, even in cottages. Match-making is, in its usually accepted sense, a cottage industry, and it is utilized as a source of supplementing the income of the agriculturist. Therefore, Sir, different considerations come into play when we deal with the excise duty on sugar and with that on matches. From the point of view of this Province, it seems to me that regarding the excise duty on matches, we should enter our most unqualified protest against the imposition of this excise duty. One finds, turning to page 102 of the Administration Report, that—

‘The general economic depression curtailed the consumption of matches, though at the same time it encouraged the production of cheaper qualities of matches. The indigenous industry now supplies the full requirements in South India, imports having ceased.’

“In this state of affairs, it seems to me that by the imposition of a further excise duty on matches, we in Madras, especially, are subjecting ourselves to a new form of taxation, the benefit of which would go to other Provinces, as was pointed out by Sir A. P. Patro. And in the words of the representative of the European Association in the Legislative Assembly, I may state that every Madrasee, whenever he strikes a match, would feel that he is contributing towards the finances of Bengal. Apart from the injustice of one Province being taxed for the purpose of meeting a deficit in another Province, the imposition of a fresh duty like this would have a strangling effect on the industry in this Province itself. Of course, it might be stated that there are no more imports of matches and therefore we need fear no competition from outside; but the imposition of this new excise duty on a nascent industry, an industry which has developed to the extent of being self-sufficing for our own Province, might encourage the imports once again, with the result that the industry might not enjoy the same prosperity as it has been doing hitherto. It was being said that the match industry in our Province was carried on with foreign capital, for the time being; but there is no gainsaying the fact that the foreign capitalized factories alone do not meet all our requirements. There are a few Indian factories, and there are the people who make this an additional source of income to them, by manufacturing matches in their own homes. Personally speaking, Sir, I should welcome a small cess imposed by the Local Government for the purpose, if need be, of controlling the trade and seeing to it that only the very best articles were put on the market. But that we should be taxed by the

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Central Government for meeting the deficit in some other Province—because that is what it comes to—seems to me to be a piece of injustice.

“ The question of duty on sugar, however, Sir, seems to me to stand altogether on a different footing. The excise duty on sugar will have to be borne mostly by the bigger factories, factories which will be brought into existence or which have already been brought into existence by capitalists. It seems to me that these well-capitalized institutions do certainly not deserve our sympathy. Our past experience has been that circumstances are exploited by these big capitalistic institutions and the method they adopt for carrying on their business is not certainly conducive to the prosperity of the people. We might remember how during the war period these big cotton mills in Bombay and other places, were returning a stunning dividend of 25 per cent and 30 per cent, while the price of cloth to the poorer people was much higher than ever before. Having exploited us in those days, to-day because of competition from Japan and other countries, they squeal and raise the slogan of ‘ Buy Indian.’ I do not want the same slogan to be repeated in the case of the sugar industry. I would certainly be in full sympathy with this resolution if, side by side with this excise duty being removed, we could get a guarantee that if profits accrued from the trade, they would be shared evenly and fairly between the manufacturer and the agriculturist. I find, Sir, that the Hon. the Finance Member of the Government of India, has proposed that, side by side with the imposition of this excise duty, there should be some institution created which will control the trade to a certain extent and also regulate the prices. When it comes to a choice of having to give up the excise duty or to give up that controlling institution, I should certainly prefer the excise duty being there, so that the profits of the excise duty may be utilized for the purpose of regulating the trade so as to ensure an equitable distribution of the profits which accrue from the sugar industry between the manufacturer and the agriculturist. Because, Sir, barring such a course, there seems to be no possibility at all of these large profits which are anticipated, going to the poorer people.”

* The Hon. the PRESIDENT:—“ There are several other hon. Members desirous of speaking on this resolution; but the time allotted for the discussion of this resolution being over, I have to put it to the vote of the House.

“ The question is—

‘ that this Council is of opinion that the imposition of an excise duty on sugar and matches is undesirable and that it is prejudicial to the interests of this Province ’.”

The resolution was carried.

The House then adjourned for lunch.

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After Lunch (2-30 p.m.)

IV.—VOTING OF DEMANDS FOR GRANTS FOR 1934-35.

DEMAND XII—ADMINISTRATION OF JUSTICE—RESERVED.

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I beg to move—

'that on the recommendation of His Excellency the Governor the Government may be granted a sum of Rs. 82,81,900 under Demand XII—Administration of Justice—Reserved'."

* Mr. M. S. SRESHTA:—"I beg to move the cut motion standing in my name, viz.—

'that the allotment of Rs. 81,900 for High Court Judges and Registrar—Pay of officers—be reduced by Rs. 100.'

I find that practically I shall have to traverse the same ground covered by me at the Budget discussion last year. So far as I can see the drawbacks in the administration of justice, which were pointed out both by myself and other speakers, have not been corrected and no examination appears to have been made of the points raised on the last occasion. That is some excuse for me for going over the same ground this time.

"First of all, I wish to deal with the question of separation of judicial and executive functions. For years past there has been agitation that executive and judicial functions should not be in the same hands. So far as I know, this system is not found in any other part of the world. Even in British Crown Colonies which are not independent, this system does not exist. I pointed out last year that in our neighbouring country of Ceylon the system of administration of justice is much better than the system here and the following are the words, in which the system was referred to in a certain book:—

'The system of administration of justice in Ceylon is very simple and so judicially we find that it will deserve to be taken as a model system and it is the best system of administration in all branches that the British Empire has to-day.'

"Rao Sahib V. I. Muniswami Pillai in a recent speech referred to the fact that in the Federated Malay States, one of the Crown Colonies the cases are quickly finished. In this country we know that the administration of justice is very good but it is very slow and costly. I personally know that cases drag on from month to month and year to year, till the patience of the litigants is exhausted. This often results in the parties coming to a settlement, because they find that this saves them much expenditure. But settlement induced by delay is not the correct thing. I think that there should be a system whereby cases may be settled in some sort of conciliation courts, in which the judges may interfere and tell the parties on whom the burden of proof lies and indicate to them what decision would be arrived at. According to the present system it is not proper for the judge to interfere and try to settle the case, because if he does so even with the best of intentions

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the parties perhaps may misunderstand him and feel that he is biased. If there are conciliation courts, where the judges could tell the parties how the case would probably end and if we have a system whereby the same judge would not be compelled to try the case, I feel that justice could be very much expedited. I know several cases, where the parties think that, after an expression of opinion by the judge as to how the case might end and how it could be settled, it is not possible for them to obtain justice. But whatever it may be, whether it is possible to establish the procedure such as I have described—I do not think such procedure is to be found in any courts at present—I think the case is very strong for the separation of judicial from executive work. The same person should not be the Magistrate and the Revenue Officer. The system, whereby magistrates are made subordinate to the Collector of the district and also in a way subordinate to the Police is a very vicious one, and the sooner it is ended the better it will be. It has been pointed out by an hon. Member that some cases are postponed from day to day to be decided during the course of the jamabandi. Criminal cases are taken up after the Revenue work is over and that means a lot of delay both for the lawyers and the parties and great deal of expenditure is involved. Therefore, it is desirable that the courts should be stationary and parties should not be made to attend courts from place to place. I would suggest that District Munsifs themselves may be appointed as magistrates or some such system may be devised whereby the trial of both civil and criminal cases can be in the same hands. This system is found in England and in France. I do not see why such a system should not be introduced here. Of course Governments are conservative and they think this is an idea, which could not possibly be carried out and would involve heavy expenditure. There will have to be a large number of judges when this system is adopted; but there will also be speedier justice, which will be much more appreciated by the public. Such a system will not be as costly as it is now. Lawyers will not have to go about from place to place and they may conveniently attend to both their civil and criminal cases in one and the same court. Now, the civil court is situated in one place and the criminal court in another place and it is very difficult for lawyers to be going about from one place to another. Therefore, I think the Government would do well to consider whether it is not feasible to introduce what has been introduced and found satisfactory in other countries.

“As regards recruitment I have been urging the desirability of holding competitive examinations for recruitment to the district munsifs' posts. At present, the recruitment is undertaken by the High Court. We have of course confidence in the High Court. All the same it is not possible for them to act in an entirely judicial capacity; it is not possible for them to balance the merits of the different candidates for appointment. Therefore, we often find that the best men are not selected. It was said some years ago that persons selected as district munsifs were generally the inefficient members of the bar. It is not the case now. But even now, if you want to select men for the district munsifs' posts from among men who have practised at the bar and have

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already shown their talents at the bar, you will not be able to select the best men. They would not agree to accept a post which carried lesser emoluments than they earned as practitioners. If you appoint men when they are young, after perhaps two or three years' practice, it would be possible to have much better men than at present and that is the reason why men are selected by examination in certain countries. That is the system that is obtaining in the colonies where both criminal and civil judicial work is done by the same person. In France also, as hon. Members are aware, the system is the same. At an early period a member of the bar has to elect between being a judge and practising at the bar. If after an examination some persons are selected as judges, they are judges for the whole of their lifetime. In France the judges as a rule do not rise to a salary of over Rs. 600 or Rs. 700 per mensem though some of them get higher salaries; nevertheless they get a very high type of men as judges, the reason being that they are selected judges at an early age. Similarly also, it would be possible to select the very best talent if we have a system of examination for recruitment. In France the recruitment is made in this manner. About 75 per cent are selected by examination and the rest are selected by nomination; and a similar system might be adopted here.

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"Then, Sir, in regard to the execution of decrees: In regard to the administration of justice, we have very little to complain. It is of course very slow, but though slow, at last justice is given to us. But, in the matter of execution of decrees, I think there is considerable delay and consequent hardship. In the service of summons, warrants and so on, it is well known that, unless the process-server is given a small sum of money, he will not carry out the work. I pointed this out to the Hon. the Law Member last time and he replied that, in a matter of corruption like this, both the parties are to blame. I think by able administration, it is possible to check the evil. The great drawback now is that the work of execution of decrees is in the hands of officers who are subordinate to judges and munsifs and these judges and munsifs have no experience of administration. They may be very good judges, but they have little experience of administration. It does not follow that in the matter of administrative work, the man who is a good judge should also be a good administrator; and the result is, as a rule, you find that the judges are so busy that they have no time to attend to the administrative side of their work. What I would therefore suggest is that, as obtains in certain other countries, the work of execution of decrees should be placed in the hands of a special set of officers, not subordinate to the judges, and that they should be subordinate to a central head who will see that the work is done properly. If that is done, I am sure the work of execution of decrees will be greatly improved.

"On the last occasion, I suggested that a committee might be appointed to go into all questions raised by me and see in what manner the administration of justice might be improved. But, I am sorry to note that no committee has been appointed so far, and I believe, no

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examination has been made of all the various drawbacks. I trust this time at least more serious notice will be taken of what has been said here and a small official committee will be appointed to go into the whole matter, to take evidence and to see whether the position cannot be improved.

“I would like also to mention something about communal representation. I have to point out that the Indian Christian community is not adequately represented in the higher branches of the judicial service. I believe, there is no Indian Christian judge at present in any capacity either in the High Court or the lower courts in Madras; and there is not even a single District Judge belonging to the Indian Christian community, and there are a few district munsifs. I submit, Sir, that the usual communal proportion has not been maintained in the judicial service. This cannot be due to inefficiency or to illiteracy, because the Indian Christian community leads, I believe, after the Brahmans, the other communities in the matter of literacy; and wherever there is fair field and no favour they come very near the top. Therefore, I do not see any reason for the fact that in the judicial service the Indian Christian community is not adequately represented. I trust this matter will be carefully examined by the Hon. the Law Member. I believe representations have been made to him before and I trust he will consider all the representations and come to favourable conclusions.

“Last of all, Sir, I have to mention something about the High Court. The High Court, as my hon. Friend, Mr. Pannirselvam has stated, is sacrosanct and I do not like to say anything against it. As a matter of fact, the High Court deserves all the praise. It is a model High Court, and the only thing against the High Court is perhaps that it is too expensive. Every one has confidence in the High Court and it is desirable that that confidence should be retained and that no High Court Judge should behave in such a manner as to forfeit the confidence of the public. I wish to point out that quite recently, a Judge of the High Court has taken up a very intensive propaganda work in a movement which is highly controversial. If a High Court Judge takes up some such thing as the prevention of cruelty to animals in which there is no controversy we will have nothing but praise for him, but if on the other hand, he takes up a question in which public opinion is sharply divided and in which religious susceptibilities are apt to be wounded, we say that that is a wrong thing for him to do and it is better for a High Court Judge to keep away from such a movement. At the same time, I must admit that this High Court Judge commands the esteem of the public and is greatly respected, and I am sorry that he has taken a very strong part in the movement called the Birth Control movement. (Khan Bahadur Mahmud Schammad Sahib Bahadur: ‘Is he doing that in his official capacity?’) My hon. Friend, Mr. Schammad, wants to know whether he does that in his official capacity. It must be obvious that he is not doing it in his official capacity, but what I say is that, if officials take part in such movements, it is likely to cause

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a great cleavage among the various sections of the public. It is not only necessary for the High Court Judge as well as other Judges to do justice, but they must appear to do justice; and how can a High Court Judge appear to do justice when he takes up a question on which opinion is sharply divided? I feel very much hurt in the matter. (Mr. Srinivasa Ayyangar: 'Why?') I think, it ought to be obvious why. I am sure Catholics as a body feel very much hurt about the matter. And I trust the Hon. Judge, who commands the esteem and confidence of the public, will give up this propaganda and I hope Government will also tell him plainly that it is not proper for him to interfere in a matter of this sort, because what he does may be misunderstood by the public."

Rao Sahib V. I. MUNISWAMI PILLAI:—"On a point of order, Sir, does this come under the purview of administration of justice?"

* The Hon. the PRESIDENT:—"It may not come, but it has got some relationship with the High Court Judge and the propaganda work that he is doing."

* Mr. M. S. SRESHTA:—"What I wish to say is, it is necessary that even High Court Judges should not take part, not only on the Bench but also outside, in activities of this kind which would divide the public and in the end produce an impression among the Muslims, Catholics or other sections of the public who are interested in the matter, that he is adverse to them. Sir, Catholics have been described as old-fashioned idealists. I am afraid I am an old-fashioned person. Now, if we give up all our old-fashioned ideas, we shall have to give up the civilization which rests upon those ideas and we will have to create a new civilization as it is attempted to be done in Germany and Russia. This may seem sound to some, who may think that those who followed old traditions such as Catholics, Muslims and Sanatanists, should all be scrapped. But, what I say is, it is not for the High Court Judge to take up a question like this and speak on it in such a manner that the public are likely to be misled. You must also remember, Sir, that a High Court Judge commands considerable influence and his words carry considerable weight and he should hold the scales even. There are several other matters in which High Court Judges can interfere without any suspicion being felt by the public that justice would in any way be interfered with."

"I am now coming to the end. There is a personal matter about which I should like to say something. Sir, this is the last time the Hon. the Law Member will be here to reply to the discussion on this subject. We may have differed in our opinions in various ways, but I think we will all agree that he has been extremely courteous and sympathetic and that whatever suggestions we have made to him, have all received at his hands careful examination, such examination as was necessary and if ultimately he could not carry out all we wanted, it is because it was not within his power to grant what we wanted. He has

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always been a gentleman of gentlemen; he has treated the House with the respect and consideration due to it and I therefore regret greatly that we will not see him again on the Treasury Bench during the next Budget discussion and we wish him long life. There is also one other matter which I forgot to mention and that is, before he lays down his office of Law Member, I trust he will appoint the committee which I have suggested earlier in my speech. I do not want any Member of the Council to be on the committee; it might be even a committee composed of officials. If I say that Members of the House ought to be on the committee, it might be thought that we are anxious to get travelling allowance and so on. But, let that committee be an official committee and let it go into the whole matter carefully. If the Hon. the Law Member appoints such a committee he will leave behind him a great legacy and will round up the good work he has already done."

* Mr. A. B. SHETTY:—"Mr. President, Sir, my hon. Friend, Mr. Sreshta, has mentioned in his speech about the delay in the disposal of suits and appeals and the difficulties experienced in the matter of the execution of decrees and he has suggested that a committee should be appointed for the purpose of going into the question and making suggestions for remedying those defects. Sir, my hon. Friend may be aware that a committee called the Civil Justice Committee was constituted about ten years ago to enquire into and report as to what could be done to provide for the more speedy, economical and satisfactory despatch of business transacted in the courts and also for the more speedy, economical and satisfactory execution of processes issued by the courts. In spite of the findings of this committee and the action so far taken by the Government in this matter, it is regrettable to note that matters have not improved much. If we look at the statistics of civil courts for the year 1932, which is the latest for which they are available, we find that the same tale is repeated year after year. There is delay in the disposal of suits and appeal and the delay has increased again in the year under report. In Munsif Courts there is a decline in the number of original suits disposed of and there is an increase in the number of original suits pending in these courts. In Sub-Courts there is a decrease in disposals in respect of all suits and the average duration of contested suits has risen to 474 days.

3 p.m. "In District Courts, the average duration of contested suits has risen from 398 to 544 days and in the High Court the average duration of contested suits has risen from 651 to 754 days and of uncontested cases from 125 to 174 days. In the matter of executions we find from the report that satisfaction was obtained in full in 13.23 per cent of the applications disposed of. Satisfaction was obtained in part in 11.70 per cent of the applications disposed of and the number of wholly infructuous applications rose from 285,046 to 298,742. The litigant has to pay heavy court-fees and in cases in which there are one or two appeals he has to spend 50 per cent or more of the amount in dispute in advance. He has to undergo lot of worry and expense on account

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of protracted litigation and after all, in many cases, he is not able to realize the fruits of his hard won victory. If 75 per cent of the executions filed in anyone year become wholly infructuous, the game is hardly worth the candle. As Sir Tej Bahadur Sapru has said the time has come when some drastic steps should be taken to revise the whole system of execution of decrees and placing it on a more satisfactory footing. The Civil Justice Committee has stated that opinion is universal that one of the main sources of delay in the disposal of suits and original proceedings as well as of appeals and execution petitions is the delay in the service of processes. For the efficient administration of civil justice, satisfactory service of processes is no less essential than the competence and honesty of tribunals. If a reliable and efficient agency for the service of processes can be devised, it will save a large part of the time of the courts. I think, Sir, that the Postal department is not utilized to the extent that is desirable for the service of processes. If simultaneous service of processes is done through the Postal department and through the process servers, it will help to bring about better results because both parties cannot act in collusion. It will be desirable also to see that the process serving establishment as well as amins do a sufficient number of personal services. Otherwise, they should be punished.

“ Another of the chief causes of the delay in the disposal of suits and appeals is the accumulation of arrears in all courts from the highest to the lowest. Government should not grudge or hesitate to create temporarily the necessary number of additional courts and Judges to clear off these arrears. The file of the courts should be reduced to such a condition that a Judge can normally dispose of a year's institutions within one year. Another way in which the speedy disposal of cases can be effected is by enabling the judicial officers to take up contested cases, when the day's work begins. In the High Court, much of the routine work has been delegated to a special officer and the Judges have been relieved so that they can attend to the disposal of cases. In a similar way, in the mufassal, the Judges should be relieved by the delegation of the preliminary work to the sarishtadar or some other duly qualified officer.

“ There is a complaint that the Insolvency Act gives facilities for dishonest debtors to cheat the creditors. A proper enquiry should be instituted into the working of the Insolvency Law so that the relief given to the debtors is not abused in such a way as it has been alleged. I think it is necessary that we should have a permanent statutory body to suggest from time to time to Government the necessary changes and improvements to be made not only in Insolvency Law but all law whether substantive or adjunctive, so that the defects and difficulties found in administering it may be remedied. The High Court Judges draw attention to such matters in their own decisions, but this is not enough to draw the attention of Government to the amendments necessary to be made. Before concluding, I must say a word about what my hon. Friend, Mr. Sreshta, has said at the end of his speech.

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I am sorry he has thought it fit to drag in the question of birth-control and protest against the propaganda done by one of the High Court Judges in connexion with this matter. Judges of the High Court must be free to have their own opinions and we have no right to prevent them from taking part in any social or philanthropic or propaganda work which they feel they must do so long as their legitimate work in the court does not suffer on account of it. It is hardly fair to have spoken in the way he has done about a respectable Judge of the High Court."

* Mr. DANIEL THOMAS:—"Mr. President, Sir, my hon. Friend, Mr. Sreshta, in his opening remarks said that practically this year he has to repeat what he has said last year because he finds that things remain practically unchanged. I am afraid if that be the standard of speaking, we shall have to repeat our speeches not only from 1933 to 1934, but for decades and decades because I do not see any prospect of immediate change in the administration. Year after year, the same speeches are made and the same resolutions are moved and as a matter of fact we find these things continue unchanged. Members of Council may speak but justice is administered by our rulers in the same old way. Therefore, I am only drawing the attention of the Hon. the Law Member that, after a strenuous period of public service, he may perhaps have to lay down the reins of his high office in a short time and that before he lays down the reins, he would be pleased to make some change for the better in the real and practical administration of justice. I may take this occasion also to express our sincere admiration for the Hon. the Law Member for the way in which, in spite of administrative difficulties, he has had the patience and the courtesy of listening to our arguments and to hear representations apart from the question as to the degree and measure in which he was able to give effect to the same.

"I may say that so far as criminal justice is concerned, the subject in which I am mainly interested, all is not well. If we compare the report of administration for this Presidency for the year 1933, and which has been just now published, with the figures for 1931-32 and 1932-33, we find in several respects the conditions that are found in the present year's report are worse than in the previous year. We find that crime has been on the increase. The total number of persons convicted rose from 274,874 to 299,896, an increase of nearly 25,000. We also find that there has been to a certain extent increase in juvenile crime and we also find that in the way in which the juvenile offenders are dealt with, the use of the provision for discharge on probation of good conduct has not been increasingly used as the public would expect. In respect of the number of persons who have been discharged on probation of good conduct under section 562, I find there has been a considerable decrease this year. In the present year, I find that the number of cases coming under section 562 decreased from 2,467 to 2,111. I believe that this section 562 of the Criminal Procedure Code was introduced to reform the administration of criminal law by a free use of it and that it was introduced because of the results

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that were obtained therefrom by the administration of this provision in England. Though this provision was introduced some years ago, still we find that adequate use of this section has not been made in the administration of criminal justice. Persons of ordinary honesty and temperament, in a moment of passion or in a moment of thoughtlessness, are led to commit a casual offence. Sentencing such persons to prison for short periods is undesirable for society. For, by doing so, far from protecting society against such persons, we will be letting loose upon society, a casual and respectable person who might have been turned into a good citizen but who has been turned into a confirmed or perhaps desperate criminal. Our experience of short sentences is that it is the very worst thing that can happen to any individual. All his respectable associations will be wiped out and he will be turned out with all his better instincts smothered if not killed. It was in order to give a chance to such men by which they can be careful to avoid a repetition of casual lapses into crime that this was introduced, and I am very sorry that year after year instead of expecting progress, there has been a decrease in the use of section 562.

“ There is one other thing which I should like to refer to. It is one of the things with reference to the administration of justice in England where the public take very great interest in the case of criminal trials for murder. In fact, in the course of the trial itself, there is very keen interest taken by the public as regards the innocence or guilt of the alleged offender. Though of course the press is prohibited from expressing any opinion as regards the nature of the evidence offered or the conclusions to be arrived at, still, the press gives a very good report of the proceedings at the trial. After the judgment in a case has been delivered, the matter is taken up to the Home Secretary for the purpose of modification of the sentence. In England, the authorities seem to devote a good deal of attention to the propriety of the sentences inflicted by the court, to find if there is any possibility for a modification of the sentences. I am sorry to note that so far as criminal justice in India is concerned, in regard to capital punishment and sentences for transportation, the judge's word appears to be final. I know, the judges exercise very great care and discretion in the matter of the sentences they pass. But they are cribbed, cabined and confined in the matter of the infliction of the sentences by certain provisions of law. For example, in a case of murder, they have no other alternative except to pass a sentence of death unless they find extenuating circumstances. So, their discretion is limited to the letter of the law. But, as a matter of fact, if the cases of these condemned men are examined by an outside agency, the sentences might probably be less heavy. For example, the sentence in a premeditated and brutal murder case must differ widely from the sentence in a case in which the death was unpremeditated or casual. Common sense requires that the sentence in these two cases must differ substantially. I am sorry that so far as administration of justice in the courts is concerned, the Government do not seem to examine the cases at all and do not interfere. I am speaking subject to correction. I believe the Hon. the Law Member

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will tell us what exactly is being done in these matters within the four corners of his office. The public are not in a position to know these things. But so far as the results are concerned, we find that in very few cases the Government interfere and grant remission. I should like to know from the Hon. the Law Member what exactly is the procedure adopted and what consideration the Government gives to cases of appeals for mercy. When mercy petitions are received, it is open to His Excellency the Governor to interfere and there is also the final power given to His Excellency the Viceroy to give pardon. No figures of these cases are given. But we do not know of any cases in which this prerogative has been exercised by either His Excellency the Governor or His Excellency the Viceroy. I hope and trust that this aspect of the matter will be considered by the Hon. the Law Member.

“ Now I come to my pet subject, the jury system. Sir, year in and year out I have been speaking on the floor of this House about the jury system. The unsatisfactory character in which the jury system is working in the mufassal districts is the thing that is responsible for my making reference to it again this year. I do not talk of Madras City where I hear the system is working very well. I am glad to hear it. But as regards some of the districts with which I am personally concerned, I can say that the jury system does not work satisfactorily. It is not a case in which you can take the net result, say that in the great majority of cases it has given satisfactory results, and allow it to continue. This is a matter in which the life and liberties of the people are at stake. Under this system it is possible for rich persons through their influence to secure the verdict of the jury in their favour and obtain disproportionate and very severe punishments for those without influence. There is scope for the influential people to escape the just punishment due to their crimes and for old offenders and others getting punishments which the circumstances of their case do not warrant. I have heard complaints that once a man goes to jail and his name is entered in the books of the Police as a known depredator, they track him down for any subsequent offence in the village. The man is not given any chance to improve. No chance is given to him for *locus penitentiae*. No chance is given to him to lead a clean life. So, in order to avoid innocent persons being run down on account of the corrupt jury system and also in order that well-to-do persons may not escape the result of their misdeeds, the question of the jury system should be examined. Even if miscarriage of justice occurs in a few cases, this being a matter which goes to the fundamental well being of the society, it requires the most anxious consideration of the Government. In this matter again I will only say that the Government appear to be satisfied with a mere routine repetition of phrases in the administration report. In the previous year's report I find this reference to the jury system:—

‘ On the whole, the jury system worked satisfactorily. It was remarked that in some districts the jurors did not show a proper appreciation of the proceedings or dare to withstand outside influences.’

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I believe it is a sufficient condemnation of the jury system to say that the jurors did not appreciate the proceedings or that they had no power to withstand outside influences even in a few cases. Coming to the present year's reference to the jury system, the remark is found to be a somewhat modified one. It is stated there 'the jury system is said to have worked satisfactorily on the whole.' The Government perhaps seem to think that it is not wise to take it upon themselves to say that the jury system worked satisfactorily on the whole. They merely give us second-hand information from their subordinates. A report of the statistics of criminal cases for 1932-33 is put into my hands just now which says 'the Sessions Judge of Madura is however, of the opinion that the jury system is of doubtful utility and that the trial by assessors has nothing in its favour.' What I am submitting therefore is that, while it is too late in the day to say that the jury system should be altogether done away with, the Government ought to find a way to improve the system and the quality of the people who sit as jurors and get the District Judges to carefully watch the working of the system. When it is reported to them by the District Judges that the system is not working well in one place, they should not hesitate to withdraw it from that place. If the Government give instructions to the District Judges that in the cases where jurors are suspected to be corrupt due action should be taken, it will set a good example. If the public understand that any juror who is corrupt will be dealt with severely, that will go a long way towards improving the system. The quality of the persons chosen as jurors should be higher. There should be a careful consideration of the results of cases by the District Judges. In these two directions I request the Hon. the Law Member to be pleased to consider possible avenues of improving the system.

"Sir, I have one other thing to mention and that is the meagre provision made for travelling and subsistence allowances. We expect the jurors to be honest and above all outside influences. Just to ensure such a thing, it is necessary that they should be given proper travelling and subsistence allowances so as not to make them dependent upon outside supplies. I also find that in the case of jurors who are summoned from headquarters, no allowance is given. For instance, Sir, if a juror is summoned from Palamcottah to Tinnevely, no allowance is given, not even a day's allowance. This is a great hardship. Local jurors are invariably persons engaged in their daily avocations. For asking them to leave off those things and attend court, even though they are local men, you should give them at least day allowance.

"There is one other matter which concerns my own district and that is the jurisdiction of the munsifs' courts situated in the headquarters. Formerly there were two district munsifs' courts, one known as the Principal District Munsif's Court of Tinnevely and the other known as the Additional Munsif's Court at Palamcottah. These two courts were having fairly large jurisdiction and about two years ago as a measure of retrenchment, the Munsif's Court at Palamcottah was

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abolished. Then the whole file of the Palamcottah Munsif was handed over to the Tinnevely Munsif. This resulted in the Tinnevely Munsif having a heavier file than one single officer can cope with. Then what happened was that a number of suits pending with the Tinnevely Munsif were transferred to the court at Ambasamudram, which had not enough cases of its own. When the cases from Tinnevely were transferred to Ambasamudram, people of Melapalayam and other villages contiguous to the Tinnevely Munsif's Court, were obliged to leave the court nearest to them and go and appear before the Munsif at Ambasamudram. That meant great hardship to them. Recently, therefore, the High Court tried to make an alteration in the jurisdiction by bringing Melapalayam within the jurisdiction of the Ambasamudram Munsif. This was not a very satisfactory solution either. So, on the representation of the Bar Association the High Court cancelled this transfer and restored the *status quo ante*. This is very undesirable. I hope and trust that the Hon. the Law Member will move the High Court to re-establish the Additional Munsif's Court in Palamcottah.

"Then, Sir, one other matter and I shall have done. I cannot resume my seat without mentioning the inadequate representation of Indian Christians in the judicial service.

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"My hon. Friend, Mr. Sreshta, has pointed out that the representation of Indian Christians in the higher cadres of the judicial service is poor. Formerly there was an Indian Christian High Court Judge, and till very recently there was an Indian Christian Chief Justice of the Small Causes Court. But now as those officers are no longer there, it is high time that Government considered the question of giving Indian Christians a chance in the superior cadre of judicial service. I think the Hon. Law Member will realize that competent individuals are not wanting, and so there will be no difficulty in finding one who will discharge the functions efficiently. Therefore I hope he will give the matter proper consideration."

* Rao Bahadur C. NATESA MUDALIYAR:—"Mr. President, Sir, I am extremely thankful to Mr. Shetty in having finished his speech in five minutes, and thus giving an opportunity to the several hon. Members, as many as sixty-five who have given notice of cut motions under this Demand, to speak. I think there is a grievance, Sir, that suits are being delayed. As far as the High Court Judges are concerned, I am only sorry that they are overworked. Day in and day out they have to be pouring over files of at least of ten suits a day, as some cases are liable to be adjourned each day. They have to be sitting from 10-45 a.m. to 4-45 p.m. every day; they have to go through the evidence, hear arguments and counter-arguments, sift them, analyse them and give their decision. Sir, for us, Members of the Council, to be sitting here and listen to the speeches every day from 11 to 5 with an interval is a strain indeed and how much more should our Judges of the High Court feel? Surely at this rate their brain power will become deteriorated. (Laughter.) I mean they may feel exhaustion."

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Mr. SAMI VENKATACHALAM CHETTI:—" May I know whether there was any actual case of brain fag? "

* Rao Bahadur C. NATESA MUDALIYAR:—" Yes, but for the holidays they are enjoying they would have suffered from brain fag. Why, is there a High Court Judge, whom you do not find shattered in health? Have you not seen many of them entering service in their full bloom of youth, but emerging out of service completely shattered in health? Have you not seen even Judges coming from England hale and healthy, and returning home in broken health, and sometimes dying even on their way home? (Mr. Abdul Hameed Khan: ' Is it on account of their work? ') Yes, on account of their brain work. So, what I suggest is that they should be given a holiday in the middle of the week, say Wednesday. (Opposition cries of ' Oh! ') I say this is not only in the interest of the Judges but also the litigants. I request the Hon. the Law Member to seriously consider the matter. As I said, they have to sit every day from 10-45 a.m. to 4-45 p.m. pouring over file after file, sifting evidence, analysing them, pondering over them, hearing arguments and counter-arguments, taking the papers with them home in the evening and writing judgments after deep and long consideration. Does not all this involve strain? (Mr. Sami Venkatachalam Chetti: ' What about the Hon. the President? ' (Laughter.) Yes, he too has to sit every day from 11 a.m. to 5 p.m.: he needs rest. So the Council should sit only for five days a week if there is a necessity to sit more than a week.

" Then, Sir, coming to the constitution of the High Court, I am sorry to say, there has been no proper representation of various communities—no Muslim representation, no Indian Christian and no depressed classes representation. Among the fourteen Judges, there is not a single Muslim Judge. You cannot say now-a-days there is no Muslim candidate available, you cannot say there is no Indian Christian available and you cannot say there is no depressed class gentleman available. Even supposing such men are wanting, why not you take qualified candidates with high moral character and capacity from these classes into the lower cadres, train them up and finally elevate them to the Bench? Unless you do such a thing, you cannot expect to have communal harmony. While all over India there is class difference, we, in Madras, have not such a thing. Why? Because we are doing justice to the several communities. So, I request the Hon. the Law Member, if need be, to bring in Muslim Judges from Afghanistan or Turkey. (Laughter.) My opinion is that there are Muslim Judges available even in our land.

" Then, Sir, with regard to the appointment of High Court Judges, I am glad that the discharging of duties by the present Judges is very efficient and of a high order. I admire them for doing their work without caring for the frown or favour of anybody, and independent even of the Government. We see, Sir, I.C.S. Judges like Justice Reilly, Justice Jackson; Justice Wallace, Justice Spencer and Justice Ayling

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and others have and had been very popular. Hence, I would suggest Sir, that whenever the authorities recruit Judges from England, it is better that they are posted to districts with High Court Judges pay, so that they may be well known in the land before they become High Court Judges. After the Reforms, probably the post of a judgeship may not be attractive, and so in order that we may have the best type of men on the Bench, I would like very much some Judges from England are brought to our country. We will accommodate them in all possible ways.

“And then, Sir, with regard to the appointment of crown prosecutors and public prosecutors, under each of them there are a number of assistants. The Hon. the Law Member should see that they are taken from all the communities, so that all of them may get the necessary training and when the time comes they may be appointed to such posts. As it is, you are not giving opportunities to the members of various communities. Suppose the Government appoint a Muslim Officer, it will be an inducement to other Muslim advocates to gather round him and pick up experience. It is not that a Muslim Judge or any officer will encourage them but his presence is an encouragement to them. Similarly with regard to the editing of the Indian Law reports. It is only in the interest of the country I am putting forth these suggestions.

“And, Sir, above all these things, what about the appointment of District Munsifs? There were days when people from all classes and creeds were not available. Now there are any number of B.A., B.Ls. available in all communities. Of course the Hon. the Law Member may say that the appointment of District Munsifs vests in the High Court. Yes, I admit that, I only request the Hon. the Law Member to place the grievances of the representatives of the people before the Judges. I say that even if there be retrenchment those who are recruited last according to the communities should not be asked to go home.”

“Sir, I do not want to take up the time of the House any more. I am extremely sorry that our popular Law Member is going away. He has been throughout very courteous to us. (Several voices: ‘Hear, hear.’) He was one of us before he was elevated to that office. (Mr. Sami Venkatachalam Chetti: ‘Was he not a Justicite?’) (Laughter.) ‘What about you?’ Yes, I am glad to own that I am a Justicite. There is a feeling that he did not do anything for non-Brahmans. That statement is not true. Otherwise how can you account for the fact that some of the Members of the Legislative Council have disappeared. I am glad that I, who founded the democratic movement with my friends, live to see that the movement has given an opportunity to exhibit the talents of persons like the Hon. Sir M. Krishnan Nayar and our beloved Sir Usman who is to become the Governor of the Presidency.” (Hear, hear.)

* AHMED MEERAN SAHIB Bahadur:—“Mr. President, Sir, in rising to support the cut motion, I wish to make only a few observations. It has become a notorious fact that, ever since Sir Abrur Rahim was transferred from Madras to Bengal in 1920, no Muslim has been

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appointed to the High Court of Madras in spite of the repeated and persistent demand of the Muslim community and its representation on the floor of the House times without number. Indeed it has been a cry in the wilderness. Dozens of vacancies arose and they all have been filled up during the last 14 years, but it is incomprehensible as to why the claims of the Muslim community have not been recognized. It cannot be said for a moment at this hour of the day that there are no competent Muslim lawyers, who could adorn the Bench of the High Court, as efficiently and competently as any other non-Muslim, if not more. The Madras Bar itself can boast of more than two or three eminent Muslim lawyers who are well qualified both from the point of view of merit and standing, and from the point of view of legal acumen at the bar. It is not necessary for me to specify the names on this occasion. It has nowadays become usual with the Government to say that the appointment of a Judge to the High Court does not lie within their province, whenever questions are raised as to the justice and desirability of appointing a Muslim to this High Court. It does not require much argument on my part to prove the hollowness and unreality of this kind of plea, which is purely a technical device to escape responsibility for the moment. No one denies that Judges of the High Court are appointed in law by His Majesty's Government under the Letters Patent or Royal Sign Manual, but it is also a fact that the appointments are made virtually by the Secretary of State on the recommendation of the Local Government or the Governor, as the case may be. The Secretary of State does not know, nor has he any independent means of knowing who are the best men for the appointment as Judges in Indian High Courts. He, therefore, relies mostly on information and advice given by the Local Government. It is the Local Government or His Excellency the Governor who advises the Secretary of State in regard to the fitness of persons; and, in turn, the Local Government or the Governor, as the case may be, gets information with regard to the persons fit for appointment from the Law Department and the Chief Justice of the High Court. The Chief Justice is the person who can advise and furnish all information about persons and their competency and standing at the bar.

“It is his advice that is the guiding factor for the Government or the Governor as the case may be in sending up names to the Secretary of State for appointment as Judges of the High Court. Of course the Law Member as the Head of the Law Department adds the weight of his knowledge and experience to the advice tendered by the Chief Justice. If such is broadly the procedure that is followed in the matter of getting persons appointed as High Court Judges, it will be clearly seen that there is not the least force in the argument that the Local Government or the Law Member has nothing to do with appointment of High Court Judges. Whenever vacancies arise, all that the Law Member or the Governor has to do is to request the Chief Justice to select the best names from among the Muslim members of the bar and then send up the best names to the Secretary of State with the

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recommendation of the Local Government or the Governor as the case may be. If the Government has a mind to get one or two Muslims appointed to the High Court they can easily get it done. In this connexion it will only be futile and frivolous to suggest that there are no fit men among Muslims to be appointed as High Court Judges. If we take up the appointments made during the last 14 years and examine each case, it will not be long before one discovers that several of the appointees who held the office and retired after long years have not been in any way superior to several of the senior Muslim lawyers who are practising in the High Court to-day. In truth, it is a well-known fact that a good number of the Judges who have held and are holding office are only men of mediocrity and not far above the average, in legal and intellectual equipment. Recently a few vacancies have arisen and one or more are likely to arise in the near future. Even in connexion with these, it will be a matter of great regret and dissatisfaction if the claims of the Muslim community are not going to be considered and justice done to them. I therefore take this opportunity to request in all earnestness that the Hon. the Law Member should make a serious effort on the eve of his retirement at least to get a muslim appointed to the High Court Bench in the next vacancy that is soon to arise.

“Turning to another point, I understand that suggestions are being made and representations appear to have been received by the Government and the High Court to abolish the existing District Munsif's Court at Tenkasi. I may at once say, Sir, that such a step would be a disastrous one from more than one point of view. The Munsif's Court at Tenkasi has been in existence for the past 15 or 20 years and it cannot be denied that it is the most successful one in the whole of Tinnevely district, bringing in largest stamp revenue to the Government. The number of suits and other proceedings on the file of this Court more than justifies the continued existence of this Court. It is located at the most convenient centre and it is popular with all kinds of litigants who resort to this Court. Once before a similar suggestion seems to have been made by interested parties and the High Court and Government have rightly rejected the suggestion as being not in the interests of the administration of the justice. No fresh grounds can now be argued for its abolition. I would, therefore, request the Government not to give any heed to any suggestion for abolishing the Munsif's Court at Tenkasi.

“I wish to add a few words about the grievances of the assessors and jurors and about the delay in the disposal of election petitions in the mufassal. Considering the enormous inconvenience caused and the inordinate time taken in the matter of disposal of election petitions, it has become necessary that some steps should be devised to expedite election cases. I would request the Government to make the High Court issue definite instructions to the subordinate courts to dispose of election cases within a specified time, if the Government itself cannot do this. The Government can also in their turn issue instructions to its law officers not to permit unnecessary delay to take place

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in the matter of the disposal of election petitions to which the Government or its servants happen to be parties. With regard to the assessors and jurors I have to state that the present allowances paid to them for helping the courts in the administration of justice at great risk of personal inconvenience to themselves are very meagre and do not compensate the actual expenses incurred by them. In many cases the assessors and jurors go out of pocket when they attend the Sessions Court for long and tedious periods. It is fair and just that the present rate of allowance should be revised. Such revision will no doubt cost the Government a small extra amount but that is very negligible when we keep in view the services rendered by the jurors and assessors to courts of law.

“ With these few words I resume my seat.”

Mr. ABDUL HAMEED KHAN:—“ Sir, speaking on this Demand, any hon. Member would certainly advert to one of the most important needs which concerns it and that is with regard to the delay that is caused in the disposal of cases. My hon. Friends who have just spoken before me, both Messrs. Daniel Thomas and A. B. Shetty, quoted facts and figures to show how a case, after it is taken up by the Judges, takes more than a year or a year and a half for its being disposed of. I was told a few months back that a case which was instituted in 1915 was disposed of only recently this year. If it takes such a long time for cases being disposed of, one can easily understand to what an amount of expenditure the litigant public would be put. I am afraid I cannot apportion the blame to this or that authority. The defect lies in the system itself and unless it is revised and made possible for the litigant public to secure justice in a shorter time, I am afraid we will not be giving real justice to the litigant public. After all, people have developed some confidence in courts of law and they seem to think, very often rightly, if they go to courts of law they will get justice done. It is no doubt true that justice is secured to them in many cases. If justice is delayed, I am afraid justice is not fully done. Therefore, I would suggest that the Hon. the Law Member will look into this matter more carefully and see if the whole system is not revised in order to secure early justice to the litigant public. I have to state in this connexion that the dispensation of justice has become very costly and is becoming more and more costly what with the amount of court-fee stamps and what with the fees to lawyers owing to the continuance of cases for years together. We are keeping a very costly establishment. Of course the Judges ought to be paid sufficiently high in order that they may be above temptation and above corruption. But, all the same, I think that the salaries that we pay to High Court Judges are far higher than what obtains in any other part of the world. Along with the revision of other salaries I am sure the salaries to members of the judiciary will also be sufficiently reduced.

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“With regard to the question of Muslim representation in the Judicial branch, it is a very sore question. No doubt my hon. Friend, Mr. Natesa Mudaliyar, not only to-day but also on many other occasions, has been espousing the cause of the minority, especially of the Muslim community, and has already spoken about the non-appointment of a Muslim to the High Court Bench. My hon. Friend, Mr. Ahmed Meeran, has spoken at length with regard to our longstanding grievance. The Muslim community has been asking for the appointment of a Muhammadan High Court Judge for the last 14 or 15 years, but for one reason or another the Government have not found their way to make such an appointment. Year after year, Muslim representatives and other friends who sympathize with our cause have been advancing our claims and have been sending representations to the Government, but the Government throw the entire responsibility on the Secretary of State and say that the appointment was made by the Secretary of State. As my Friend, Mr. Ahmed Meeran, has stated that the entire responsibility cannot devolve upon the Secretary of State. Sitting far away from this country, about 7,000 miles, it is impossible for the Secretary of State to select any proper person for the High Court Judgeship unless he is advised by the Local Government. Of course if the Chief Justice is the legal authority who initiates this selection, I am sure that the Government of the Province as a whole has a hand in it, whether it is the Hon. the Law Member or His Excellency the Governor does not matter for us. We in this House can only ask the Hon. the Law Member to do justice to our community. Of course I know that in the case of a recent appointment to the High Court Bench, the Hon. the Law Member was utterly ignorant as to what happened and it was only subsequently that he came to know of it. If such a thing happens, we cannot entirely hold the Hon. the Law Member responsible. After all, it is the Government that are to be entirely blamed for not listening to our representations. The question of capacity, competency and efficiency can all be advanced, though not publicly, at least privately. If it has been found possible for the community to produce a gentleman who is going to become Acting Governor, certainly that community can say that it possesses persons who can become High Court Judges. There have been of late so many vacancies on the High Court Bench and appointments were made from all communities and even very recently the Government tried to get some European gentleman whose claims to the appointment were considered but who did not get it. But I understand that the appointment is likely to go to the very same gentleman for reasons best known to the Government. Such being the case, I see no reason why men from our community alone are not appointed and why we should be told that we have not got men who are sufficiently qualified and fit for the post.

“So far as other appointments in the High Court Service are concerned, I am afraid the authority in the High Court who has got the power of making such appointments is certainly more communal

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than anybody. It seems to me that that authority favours only one or two communities. It entirely ignores the existence of other communities. I do not know how to make that authority realize that there are other communities whose claims ought to be looked into and justice done to them. Even for the appointment of peons or daffadars or clerks, that authority seems to think that there are one or two particular communities from which alone it can make such appointments.

“ When that is the view of this authority I do not know, as long as it exists, whether there will be any chance for any other community. I understand that recently selections were made for District Munsifs. The selection was made by the High Court and twelve candidates were selected, but not one of them is a Mussalman. I ask: are there so many Mussalmans in the cadre of District Munsifs that it was impossible for the Government to select one more Mussalman. Were there any applicants for the post from Mussalmans and, if so, how many? Were there not Mussalman applicants who were quite as qualified as the applicants from other communities who have been selected? If there were such applicants, what exactly was the reason for ignoring the claims of Mussalmans. Last time only a few were selected and still the representation of Mussalmans in the cadre of District Munsifs is quite meagre. In these circumstances, I cannot understand what made the authority responsible for the selection ignore the claims of Mussalmans? Of course, the world knows how these selections are made and how things are done and I do not think it is necessary for me to explain here in this august body how these things are done. Unfortunately those considerations do weigh with the judges who make the appointments. However, I hope it will not always be the case. 4 p.m.

“ Sir, I understand that the Government are thinking of constituting a new City Civil Court and increasing the number of Judges there. I hope that the claims of the Mussalman community will be considered in that connexion. These are the many things which I thought I ought to represent to the Government on this occasion. I dare say that the Hon. the Law Member who is on the eve of retirement from his membership will kindly see in the short time at his disposal that representation is made to the proper quarters to recognize the claims of Mussalmans so far as appointments in the High Court are concerned. I think, Sir, I should take this opportunity of thanking the Hon. the Law Member for the kind courtesy that he has shown to Members of this House during his regime as Law Member and for all that he has done for the people of this Province.”

* MR. M. DEVADASAN :—“ Sir, I just want to make a few observations on the motion before the House. Justice is not impartially meted out in the mufassal, specially in the rural parts. The administration of justice in the villages is left in the hands of the village courts and the panchayat courts. With due deference to the Hon. the Law Member, I should say that greater reforms are necessary in the constitution and the working of the village and panchayat courts. I find from that

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administration report that 111 cases have been transferred from the village courts to other courts and 632 or thereabouts have been transferred from the panchayat courts to other courts by the District Munsifs under Section 20-A of the Village Courts Act. Several petitions are filed every day for the transfer of cases from these courts and for setting aside under section 73 of the Village Courts Act of the decrees passed by these village courts and panchayat courts. There is no mention about the number of cases in which the decrees have been set aside under section 73. The people in the mufassal complain that justice is not meted out impartially as the village munsif or the members of the panchayat side one faction or the other in the village. Thus there is miscarriage of justice. In the Government Order issued by the Government on the administration report, the Government are pleased to observe that village courts and panchayat courts are becoming more and more popular. I should say Sir, that this statement has been based on the reports furnished by the subordinate courts. But, if we examine the matter carefully we find that many petitions are filed in the District Munsifs' Courts either for the transfer of cases or for setting aside decrees passed by village and panchayat courts whether justice is done to the clients or not. That shows that something is needed to improve the administration of justice in the villages.

"With regard to the constitution of these courts, we find that they are mostly composed of the influential sections of the people. I put several interpellations on this point. I have to say that these courts are generally constituted in such a way as to be prejudicial to the interests of the minority communities. I hope that before the Hon. the Law Member lays down his office, he will make some provision for the adequate representation of all communities on these village courts and panchayat courts.

"I now want to say a few words about the administration of criminal justice. Recently, Sir, officers have shown some apathy and indifference in trying the cases coming before them. Some security cases are not dealt with in the manner in which they ought to be dealt with. They have been thrown out. Though I am a vakil, I should say that in the interests of justice, people who are brought before Magistrates for proceedings under the security sections of the code, have to be warned and bound over so that they might not do any mischief. Some Police officers complained to me that some security cases were thrown out by the Magistrates although those cases deserved some action to be taken. Some Magistrates do not care to do more work than they like and they do not go into the petitions presented to them. Petitions under section 145 of the Criminal Procedure Code are presented before Magistrates; but they do not take cognizance of those petitions, nor do they send them to the Police for proper enquiry on the other hand they dismiss the petitions and ask the people to file criminal complaints if they are so advised. Since the Magistrates neglect this kind

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of work, criminal offences both cognizable and non-cognizable are committed. If people are warned in time, they will not occur.

“ Sir, I have to congratulate the Hon. the Law Member for one thing he has done for us and, if I do not do that, I will be failing in my duty. In the past there were not enough members of the Depressed Classes on the bench courts. Now he has been kind enough to instruct District Magistrates to nominate members of the depressed classes to these courts. I must also thank the Law Secretary for having acceded to the request of the members of the Depressed Classes to appoint them as bench magistrates. There are enough men among the Depressed Classes competent to be bench magistrates and I hope he will issue necessary instructions to District Magistrates to see that the claims of the Depressed Classes and other minorities are not neglected in the least when bench courts are constituted in the future.

“ Sir, I have given notice of some cut motions, some of which have already been dealt with by my hon. Friends and I do not want to refer to them again. I shall, therefore, confine myself to a few only which have not been touched upon by others. In Tinnevely, the offices of Public Prosecutor and Government Pleader are held by one and the same person, while in other districts the offices are held by two different persons. I ask the Hon. the Law Member to see that in future the two appointments should go to two different persons and not be held by one and the same person. There is a feeling among the minority communities in Tinnevely that their claims have not been considered in making the appointments of Public Prosecutor and Assistant Public Prosecutor in the past. I hope that the Hon. the Law Member will give due regard to the claims of these communities in making future appointments to these posts.

“ I have given notice of another motion also on a subject which was often dealt with before—the separation of the executive from the judicial functions. Several other hon. Members also have given notice of a similar motion. This is a vexed question—the same officer discharging both judicial and executive duties. It gives a lot of trouble not only to the public but also to the members of the bar who practise before Magistrates. These executive officers camp in different places in the district and therefore it causes not only a good deal of expense to the litigant public but also considerable trouble to the members of the Bar. Therefore, it is high time that the two functions should be separated from each other and vested in different officers.

“ Before I close, I wish to say that the members of the Depressed Classes are very grateful to the Hon. the Law Member for the sympathetic consideration he has given to their claims for appointments as bench magistrates and others. I must also observe that though he was old in age, he was active as a young man. During his regime he came twice to Tinnevely and inspected the courts. I wish him long life and success.”

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B. POKER SAHIB Bahadur:—"Mr. President, Sir, I shall confine myself to five minutes as I undertook to do before you in private. I want to urge on the Government the necessity of issuing a Government Order to the effect that all courts in the Presidency should adjourn for two hours from 1 p.m. to 3 p.m. or 12-30 p.m. to 2-30 p.m. (not 2 p.m. as is put on the notice paper) according to the needs of the locality on all Fridays with a view to enable the parties, witnesses, advocates or the presiding officers of the courts who may happen to be Muslims to attend Jumma service. Sir, I make this motion on account of the difficulty we, Mussalmans, have been experiencing all these years. The courts rise at about 2 p.m. or so on Fridays as also on other days. The High Court rises at 1-45 p.m. By that time the Jumma prayer is over; it is only three-quarters of an hour that is allotted for lunch; during that time it is impossible for us to attend to Jumma prayer. Though the Hon. the Law Member is not a Muslim, I know he is quite well acquainted with the religious tenets of the Muslims and with the binding nature of the Jumma prayer. It is incumbent on every Muslim to attend to Jumma prayer unless he is disabled in some way or other. I know that the Government have been affording facilities to Muslims in these matters. This difficulty has not been solved by the Government, simply because the difficulty experienced by lawyers, by parties and by witnesses who attend the courts, has not been brought to the notice to the Government. In view of this inconvenience, the Government have issued a Government Order enabling the members of the staff of judicial courts to take two hours rest for attending to the Jumma prayers. Since the Government consider that it is the religious duty of the Muslims to attend to Jumma prayers, they have given two hours' time to the establishments of judicial courts to fulfil this religious duty. Therefore I do not see any reason why the Government should not recognize the same duty cast on the other Muslims, advocates, parties and witnesses or even judicial officers. No doubt presiding officers have got the liberty of rising whenever they like to accommodate themselves. But advocates, parties and witnesses feel this inconvenience. I know of many cases where Muslims have to choose between their religious duty of performing this prayer or attending to cases which are to be taken up during this period. I think the Government will relieve us from this difficult situation. After all, what I ask is only about an hour more during lunch time, on one of the five or six working days in a week. I do not think that would materially affect the working of the courts; it would not affect the efficiency of the courts. I will go to the extent of saying that, if any holiday is to be cut, it may be done. I would appeal to the Government that this convenience should be afforded.

"One other matter I wish to refer to. It is an urgent necessity to provide sitting accommodation for parties, witnesses, etc., who have to visit the courts in the mufassal. You know that there is such accommodation for the public in every court in the High Court. You do not find any such accommodation in the courts in the mufassal. However

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respectable the parties or the witnesses may be, they have either to loiter about in the courts or they have to be standing or they have to squat on the floor. I do think that the Government would realize the necessity of providing such persons with seating accommodation, as it is done in the High Court, in the Small Cause Court and other courts in the city. It may cost a little to the Government but I think that is an expenditure worth incurring, in order to remove the inconvenience felt by the public.

“ I wish to say a word or two about the necessity to provide for an overbridge connecting the Small Cause Court premises with the High Court buildings. (Voice: ‘ The legal practitioners will pay.’) If it is shown that these practitioners do not pay sufficiently to the Government in various ways by payment of various taxes, it will be time to consider the question. Certainly it is very essential to the convenience of the legal practitioners who have to attend to work both in the High Court and in the Small Cause Court. I find, there is a small bridge provided between the library room and the corridor in front of the Chief Justice’s room; it is only 2 cubits. I do not know what purpose it serves. I do not see any reason why the Government should not seriously consider the question of providing an overbridge between the High Court and the Small Cause Court premises as there are so many practitioners who have got work in both the Courts. It is all the more necessary as the City Civil Court has been recently transferred from the High Court buildings to the new Small Cause Court buildings. Therefore there is much of congestion in the latter building.

“ There is another point. That is about the necessity to have an Additional District Munsif’s Court at Tinnevely. At present the litigant public who are living in the vicinity of Tinnevely town are asked to go 20 miles to Ambasamudram and file their suits there. That, I submit, is a great hardship. If an enquiry is made, the Government would be convinced that this demand is a very reasonable one. I do not propose to take much more time in view of the undertaking I gave.”

* The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—“ Sir, I shall try to be as brief as possible, though there is a large number of points referred to by my friends, which necessitate my replying to at least the more important of them. My friend, Mr. Sreshta, referred to the question of separation of judicial from executive functions. That is a very hoary question. I remember that, when I was at the bar, when I was a very young man, this was one of the questions constantly dealt with both on the platform and in the Legislative Council. As my friend, Mr. Sami Venkatachalam Chetti, reminds me, I was agitating this question, when I was a non-official Member, on the floor of this House. Whatever it may be and however desirable it may be, I may tell my friends that it is beyond this Government to take any action in this matter. As a matter of fact, a small committee was appointed some years ago by this Government to go into this question and they recommended some reforms though not of a very extensive nature. A

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report regarding the recommendations of that committee was sent up to the Government of India. Subsequently this question was being agitated on the floor of the Council of State and also on the floor of the Legislative Assembly at Delhi. In the year 1928 or so, a reply was given to a question asked in the Council of State on this matter. That reply was to the effect that the Secretary of State had ruled that this question should be treated as an All-India one, and that no Provincial Government could therefore treat this question as Provincial matter. A despatch to that effect has also been forwarded to this Government by the Government of India. What they stated on the floor of the Council of State was that the Statutory Commission presided over by Sir John Simon had not submitted their report and that until that report was submitted, the Government of India themselves would not move in the matter. I am not using their words. That is the substance of what they said on the floor of the Council of State. They themselves could not take any action and the report of the Statutory Commission was awaited. I find by a reference to the reports of the various Round Table Conferences that there is no reference to this question in those reports. But there is a reference to this question in the report of one of the Subject Committees of these Conferences. As far as I can recollect—I speak subject to correction—I think that there is no reference to this question in the White Paper also. In any case my point is that it is beyond this Government to take any action in this matter.

“Then my friend, Mr. Sreshta, went on to say that District Munsifs should be appointed by competitive examinations. I am afraid that I cannot agree with him in this matter. My friends who are members of the bar will, I believe, agree with me when I say that a Munsif's appointment requires very high qualifications. The capacity to administer Civil Justice as District Munsif does not depend upon the capacity to pass competitive examinations. Experience at the bar is necessary; knowledge of human nature is necessary; all these things come to a person who has been at the bar for some time. I think that the present system of recruiting District Munsifs is very much better than the system recommended by my friend, Mr. Sreshta. It will be remembered that some of my friends urged that the power of appointing District Munsifs should be transferred to the Madras Services Commission, and that it should be taken away from the High Court. I entirely agree with my friend, Mr. Pocker, in thinking that that should not be done. The Madras Services Commission will not be the proper body to appoint District Munsifs; they will not be in a position to know the comparative merits of the applicants for the posts of District Munsifs. The Judges of the High Court also may not be able to know the comparative merits of all the applicants. But the High Court is in a better position than the Madras Services Commission to know the comparative merits of the applicants and it will be remembered that even in England where appointments for the public services are generally made by the Public Services Commission, the appointment to judicial posts is not in the hands of the Public Services Commission. Of course, the Judges of

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the Supreme Court are appointed by His Majesty; but County Court Judges are appointed, not by the Public Services Commission, but by the Lord High Chancellor who is the Head of the Judiciary in England.

“ Then my friend, Mr. Sreshta, referred to the delay in the disposal of cases; many other friends also referred to this point and to the delay in execution of decrees. There is perhaps some justification for the complaints of my friends. But what I submit to this House is this; the High Court and the Government have done and are doing all in their power to minimize the causes of this delay. Reference to the delay in the disposal of cases in the High Court also has been made to-day on the floor of this House. So far as the High Court is concerned, the Government have, on the recommendation of the High Court recently, increased the number of permanent Judges by two and, in addition to this, they have permanently appointed an officer called the Master who discharges many judicial functions which were till then being disposed of by the High Court Judges themselves. I believe the Official Referee also attends to judicial functions. In addition to this, as my friends are aware, a Bill has been introduced into this Council for enhancing the pecuniary jurisdiction of the City Civil Court to Rs. 10,000, and when this Council passes that Bill, part of the original jurisdiction of the High Court will be transferred to the City Civil Court. That will lead to more speedy disposal of cases not only on the Original Side of the High Court but on the Appellate Side also. After this Bill is passed, another Judge will be appointed to the City Civil Court. I may say that the Government will then bear in mind the suggestion of my friend, Mr. Hameed Khan, to appoint a Muhammadan gentleman to that post.

4-30
p.m.

“ With reference to the suggestion of my friend, Mr. Sreshta, that there must be some other authority than the District Munsifs and Sub-Judges, to dispose of execution cases, I am afraid that I cannot agree with him. As lawyers in this House know, in execution of the decrees, very often more complicated questions of law than in the disposal of cases themselves arise, and it must be trained judicial officers that should be entrusted with the power of disposing of them.

“ My friend, Mr. Sreshta, again referred in very strong terms to the activity of one of the High Court Judges in advocating birth-control; but I was glad to observe that he himself referred to him as a very respected person and a highly respected Judge of the High Court. He blamed him for taking part in the controversy relating to birth-control. I believe that my friend, Mr. Sreshta, will agree with me—and I am sure that all my other friends in this House will also agree with me—when I say that whatever his opinions on birth-control may be, his duties in connexion with his office as a Judge are not in the least affected by his opinions (Hear, hear). That is the only matter, I think, with which this House is concerned. I believe that Mr. Shetty also replied to Mr. Sreshta and said that his private opinion on matters, which are not in any way connected with the decision of cases, is not the concern of this House.”

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Mr. M. S. SRESHTA :—" But he is doing propaganda work."

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR :—" In any case, as I said, all that this House has to do with him is with his work as a Judge and I am glad that my friend himself has paid a compliment to his capacity, his probity and his efficiency as a Judge.

" My hon. Friend, Mr. Shetty, also referred to the delay in the disposal of cases. I have answered that question already.

" My friend, Mr. Shetty, again made a suggestion that the post office may be made the medium of serving processes to the litigant public. In fact, Mr. Shetty himself and some others have stated that this function of serving process is an important one. I do not think that the post office will be a better agency than the paid process peons for serving these processes. I do not mean to say that the process peons are an ideal set of persons. As a matter of fact, there are very few, if any, ideal persons in the world. The courts do exercise as much control as possible over these process-servers. In any case, I think that the post office cannot be a much better agency for serving the processes on the public."

Mr. BASHEER AHMED SAYEED :—" But the post office is now being used."

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR :—" As a lawyer himself, my friend knows very well that sometimes when questions relating to the receipt of registered letters and registered replies come up before the courts, the question of the integrity of the post office peons also arises. At any rate, that was my experience in old days. I do not know whether the post office peons have improved since then.

" Then my friend, Mr. Daniel Thomas, referred to various subjects. He referred particularly to the need for using section 562 of the Criminal Procedure Code. I agree with him. It is really desirable that that section should be used to a larger extent than now. The Government have drawn the attention of the Magistrates to that aspect of the question.

" My friend then wanted to know how mercy petitions that come up before the Government are disposed of. The general principle on which these mercy petitions from condemned prisoners—prisoners sentenced to be hanged—are disposed of is this. The Government take it for granted that the findings of fact and law arrived at by the High Court are correct. It will be wrong on principle for the Executive Government to differ on findings of fact or on questions of law, from the decisions of the highest tribunal in the land. All these questions of death sentences have to go to the High Court. So, the findings of fact and of law are always taken by the Government as correct. Then the Government see whether there are any special considerations for them to use their prerogative of mercy in the case of the petitioners. For instance, there may be cases of extreme tenderness of age of persons sentenced to be hanged. According to the Indian Penal Code, the Judges

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of the High Court are bound to give the death sentence in many cases. If the accused happens to be a very young boy of 17 or 18, that may be a circumstance to be taken into consideration by the Government. Again, there may be cases of sex to be considered. Suppose a woman is sentenced to be hanged, the Government take her sex into consideration and may exercise their prerogative of mercy for the commutation of the death sentence into one of transportation for life. That is generally the policy that is followed by the Government. With reference to procedure, these mercy petitions are always treated as urgent in the Secretariat. There is also a standing instruction to the Superintendents of Prisons that no person who has been sentenced to be hanged should be hanged till the mercy petition that he may have submitted to the Local Government or to the Government of India is disposed of. That is a standing instruction, and that has been repeated with greater details after the recent unfortunate occurrence in the Punjab."

MR. SAMI VENKATACHALAM CHETTI :—" What about the recent Government Order with regard to these mercy petitions? "

THE HON. DIWAN BAHADUR SIR M. KRISHNAN NAYAR :—" As a matter of fact, that is based upon the orders of the Government of India. As I said, the Government always treat these mercy petitions as very urgent, and if the Local Government refuse to interfere, they forward the petition addressed to the Government of India, to that Government. If, on the other hand, the Local Government themselves interfere with the death sentence, then they do not forward the mercy petition addressed to the India Government, to that Government.

" My friend, Mr. Daniel Thomas, condemned the jury system. I think that last year also he referred to the same question. (An hon. Member: Every year.) My friend may be right or may be wrong; I am not in a position to say. But it is a very difficult question for a Local Government to tackle. This is a system which is embodied in the Criminal Procedure Code by the Government of India, and this Government cannot therefore interfere with it. Though there may be aberrations now and then, as my friend stated, on the whole I am inclined to think personally that the jury system is after all not bad. My friend might have had in his mind, when he referred to this matter, the recent occurrence in his district where some jurors in connexion with a case were charged with corruption. That matter has come to the notice of the Government. Anyway, Sir, on the whole I think that the present system is working satisfactorily.

" My friends, Mr. Pocker and Mr. Devadasan, and also Mr. Daniel Thomas, I think, referred to the abolition of the Palamcottah Munsif's court. That court was abolished in 1931 as a matter of retrenchment, on the recommendation of the High Court and in accordance with the request of the Tinnevely Bar, the whole of the territorial jurisdiction of the Palamcottah Munsif's court was transferred to the Tinnevely Munsif's court.

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“ With reference to the question of the distribution of the territorial jurisdiction, it is a matter which, under the Civil Courts Act, is entirely within the jurisdiction of the High Court; and the High Court, I am sure, will go into the matter very carefully and do what is necessary.

“ Some other friends suggested that it was under contemplation to abolish the Ambasamudram Court or the Tenkasi Court. There is no such question before the Government now.

“ I may also refer to another important matter referred to by my Muhammadan friends, i.e., the need for employment of Mussalmans on a larger scale in the judicial service, and particularly the need for the appointment of a Muhammadan Judge in the High Court. As I have already submitted to this House, and as Mr. Hameed Khan himself anticipated, the Local Government have nothing to do with the permanent appointment of High Court Judges. The appointment of permanent Judges to the High Court is made by the Secretary of State on the confidential recommendation of His Excellency the Governor and His Excellency the Governor is not bound to consult his Colleagues in the Government. Of course he has other sources of information with reference to the candidates available. I shall however, bring these representations to the notice of His Excellency, and I may say that with that sense of fairness and justice which characterises all his actions, His Excellency will do what is proper in this matter.”

Mr. SAMI VENKATACHALAM CHETTI:—“ Why should we vote the money? ”

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—“ I may tell my friend that the pay of a High Court Judge is non-votable. We have no right to vote for or refuse it.”

Mr. SAMI VENKATACHALAM CHETTI:—“ What about his establishment? ”

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—“ There is no question of appointing Mussalman gentlemen to the establishment now.

“ I am afraid, Sir, that I am exceeding my time. I shall be very short, Sir. There are many other points referred to by my friends, which, I am sorry, I am unable to touch upon now in any great detail.”

B. POCKER SAHIB Bahadur:—“ What about Friday adjournment? ”

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—“ With reference to Friday adjournment, the High Court itself has issued a circular to all the Civil Courts in the Presidency, requiring that one hour's interval should be given on every Friday to every Mussalman employee of the Court. If a request is made to the presiding Judge of the Court, I have no doubt whatever that the necessary interval will be given to the Muslim practitioners, parties and witnesses also. In any case, Sir, I shall forward the suggestion to the High Court.

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“ There are many other things referred to by my friends, but I think my friends will excuse me. . . .”

Mr. M. S. SRESHTA :—“ What about the appointment of a committee? ”

The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR :—“ My friend's suggestion was that a committee should be appointed to go into all these questions relating to the administration of justice. I am afraid, Sir, that a committee will not be the proper machinery for going into these questions. The proper machinery would be the High Court itself. Anyway, my friend's suggestion will be forwarded to the High Court.

“ Before I sit down, Sir, I wish to refer to some personal references made to me by many of my friends here, namely, Messrs. Sreshta, Natesa Mudaliyar, Daniel Thomas, Hameed Khan, Devadasan and others. I feel very grateful to them for these personal references. As my friends stated, this is the last time when I shall speak here on Budget discussions. I shall have, no doubt, further opportunities to speak on the other demands, but still, as they have kindly referred to me personally, I wish to say that I am very thankful to them for those remarks. I am also thankful for the co-operation that I have always had from the Members of this Legislative Council, and it will be a matter for very pleasant recollections to me hereafter that I have had the privilege and the happiness of receiving such hearty co-operation from all my friends. Though, as I said, this is not the last Demand of the Budget on which I shall speak, yet, I may take this opportunity of tendering my heartfelt thanks to the Law Secretary, his Assistant Secretary and the whole establishment working in the Law Secretariat and to the other Secretaries for helping me whole-heartedly in the discharge of my duties.”

* Mr. M. S. SRESHTA :—“ Mr. President, Sir, I am thankful to the Hon. the Law Member for having practically dealt with all the points that were raised in the course of the debate by myself and other speakers. May I be permitted to say something in reply to what he said regarding the Judges of the High Court.” 4-45 p.m.

* The Hon. the PRESIDENT :—“ We have already exceeded the time allotted for this Demand. I don't think it will be in order to go on discussing once again.”

The cut motion was, by leave, withdrawn.

The Demand was put and carried and the Grant was made.

DEMAND XIII—JAILS—RESERVED.

* The Hon. Diwan Bahadur Sir M. KRISHNAN NAYAR :—“ I move—
‘ That on the recommendation of His Excellency the Governor the Government be granted a sum not exceeding Rs. 20,22,900 under Demand XIII—Jails—Reserved ’.”

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* Mr. G. R. PREMAYYA:—" Mr. President, Sir, I move—

'To reduce the allotment of Rs. 34,800 for Jails—Superintendent—Pay and Allowances of Officers and Establishments, by Rs. 100.'

"The policy of Jail administration should be more of corrective and preventive nature. From the report of administration of jails one can easily find that there are three classes of prisons, viz., district jails, borstal schools and special jails. I think you have separate wards for females. We are in the dark as to whether the treatment accorded to them is satisfactory or not. I suppose that there are no female superintendents. Even if there are as usual, they will be assaulted for the reasons which I am going to show. Not much has been said about the Vellore Presidency Jail for Women.

"Generally a convict will be released by a special order of the Government, on the recommendation of the Advisory Board, on medical recommendations and under scheme of premature release. Of these, Sir, I wish to deal with the advisory boards and medical recommendations. I know that advisory boards are constituted for the purposes of advising Government in matters connected with convicts. I have seen the report and was also given to understand that one or two gentlemen had been selected as life members as it were of the board and will continue to be there for eternity if God gives them longevity. If Government are earnest about the co-operation of non-officials, they will be well-advised to choose trustworthy non-officials as members of the board in different areas. These boards though they are constituted with good intention will not be appreciated by the people at large until they are above criticism, and so I say non-officials of different areas should be appointed to the board.

"As regards medical recommendations to which greatest importance is attached when discharging prisoners on medical ground, I do not know what to say. The Government know full well that a certain prisoner is seriously ill. Medical officers are in attendance on the sick man, diagnose the disease and if they expect that the disease is going to be a dangerous one why not they put the patient in the hospital and give him good treatment? To say that three of the persons whose release on medical grounds was sanctioned by the Government, died before orders were received is very deplorable indeed. This does not speak very high of the department. If the report explains to us who the dead persons are and their history, we may be in a position to know the actual truth.

"The administration report shows an increase in the number of convicts who are engaged in agriculture. I wonder how these people are treated. The rules allow for newspapers and some books in the case of educated convicts. Many books of a very high order have been written by persons in jails. Bunyan's Pilgrim's Progress is an example. Pandit Jawaharlal Nehru and Mahatma Gandhi have written wonderful books. Although these agriculturists are convicts, it is not to be forgotten that

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they have likes and dislikes and are human. They need some manual and brain work as well during their stay in jail. It is the duty of the Government to change them mentally, morally and socially. The abusive language—I wish the Hon. Member to bestow his particular attention to what I am saying—used by the authorities towards the convicts and the brutal treatment meted out to them make the convicts more desperate and rude; on the other hand, if the authorities treat the convicts kindly, as far as the Jail rules permit and try to change them, they will certainly yield; they are not worse than beasts and can be changed. Their outlook on life may be changed and their general level of intelligence can be raised by means of magic lanterns and cinemas. It may be of advantage to these criminals if small moral stories are shown on the picture. Penal colleges in the western countries, Denmark, Germany, Holland and Austria are following this method. People who are once convicted must be in a position to share the responsibility of citizenship just like any other man after they are discharged. In the West, in the case of convicts who had been agriculturists, prior to conviction, they are taught gardening, bee-keeping, piggery, sericulture and other subjects so that on discharge they may be able to start business rightaway. This is not done in our country. Prisoners' Aid Society which finds job for the discharged prisoners is only having undue advertisement. The prisoners find themselves lost to the world when they come out of jail. If the western method of reformatory is adopted there will be no difficulty for the prisoner to earn his bread on his release from jail. The petty jail officials must behave better. Indecent language should not be used against convicts. As regards first offenders, the West has separate colonies for them; and in some colonies a separate section is given away to those who are sentenced for a short term. Habituals are not under any circumstance kept in close touch with first offenders or juveniles. I hear that there is a Bill before the Government of India to introduce a system of probation for first offenders. I believe that this measure is under preparation and strict examination for a long time, and no one knows when it will be passed into law. If there is to be any reform by the India Government, it is in this department that is most needed. Jail policy requires to be completely and entirely changed and reorganized on the lines of the western system of reformatories. Corporal punishment is being awarded to C class civil disobedience prisoners. Nowadays, this form of punishment is unheard of in the West. Whipping also is awarded in certain cases, say in the case of an assault on the Superintendent. I say that these assaults are the outcome of bad treatment given by the Superintendents. The prisoner knows that he is helpless, and he has also no way to defend himself against ill-treatment and he cannot brook abusive language. The man grows desperate and resorts to assault. In such a model institution as the Madras Penitentiary, for small offences whipping is awarded. The Superintendent behaves like a despotic monarch. The convicts are utterly helpless; they cannot appeal to anybody and even if they do, none will go to their rescue. Who knows what is going on between the four walls of each jail? What I say is that by a more humane treatment, we can put a stop to many offences against jail discipline.

[Mr. G. R. Premayya]

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“ In certain self-governing countries, the ruling parties put their political enemies in jails and when the opposite party comes into power they in turn put their political enemies in jail. Let us now presume that we have self-government. We know that if we behave improperly, we shall be put into jail. If we come to power in the next elections, we will put some people in jail and the first of such persons will be the Hon. the Law Member who refused to give buttermilk to C class civil disobedience prisoners. He must have known that buttermilk is not a luxury and I know of several cases in which convicts get ill due to non-supply of buttermilk. I am neither a Congresswallah nor one who sympathises with the movement; I cannot see eye to eye with them. But I deprecate this attitude of revenge and as one who sincerely wishes for the betterment of the Indian nation, as one who would like to see the Indian nation, getting *swaraj*, I strongly criticize the present system of jail administration and sincerely wish that the Government should in the near future adopt the western method of reformatory. By so doing, I think the Government will be automatically putting a stop to a lot of trouble.”

At this stage the House adjourned to meet again on Monday, the 19th March 1934 at 11 a.m.

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.

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TRUTH ALONE TRIUMPHS

17th March 1934]

APPENDIX I.

[Vide answer to question No. 791 asked by Mr. M. B. Rangaswami Reddi at the meeting of the Legislative Council held on the 17th March 1934, page 366 supra.]

Names of municipal councils working at a deficit.	Steps taken by the Government to rectify the same.
1 Hindupur	The deficit will be met from the surplus opening balance and by a curtailment of expenditure.
2 Vaniyambadi	The council works at a surplus but, owing to a deficit opening balance, the closing balance also is expected to be a deficit one. The council has been advised to reduce the expenditure so as to cover the deficit.
3 Walajapet	The council has been advised to reduce its expenditure.
4 Bellary	The council works at a surplus but, due to the opening balance having been a deficit one, the closing balance is expected to be in deficit. The commissioner of the municipality has been told to collect the arrears briskly and to wipe off the deficit.
5 Saidapet	It works at a surplus but it had a deficit opening balance in consequence of expenditure on capital works in past years. A loan of Rs. 27,000 has been sanctioned to the council in the current year and the deficit will be made up.
6 Chittoor	The deficit in working will be made up from the surplus opening balance. The council has also been asked to make retrenchments in expenditure.
7 Coimbatore	The deficit in working will be met from the surplus opening balance. The Council has also been asked to make retrenchments in expenditure.
8 Parlakimedi	Do. do.
9 Narasaraopet	Do. do.
10 Nandyal	The question of permitting the council to divert special funds temporarily to meet the deficit and of taking adequate measures to place the municipal finances on a stable footing is engaging the attention of Government.
11 Palni	The council started the year with a deficit and expects to work at and close with a deficit. It has been permitted to divert water and drainage fund temporarily and told to reduce its expenditure.
12 Cannanore	The deficit in working will be met from the surplus opening balance. The Council has been asked to retrench its expenditure.
13 Tellicherry	Do. do.
14 Kumbakonam	Do. do.
15 Mannargudi	Do. do.
16 Tinnevely	The council expects to make up the deficit in working from its surplus opening balance.
17 Nellore	The deficit in working will be met from the opening balance. The council has been told to retrench expenditure.
18 Srirangam	The council works at and expects to close with a deficit. It has been told to retrench expenditure and augment its revenues.

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APPENDIX II.

[Vide answer to question No. 794 asked by Mr. K. A. Nachiappa Gounder at the meeting of the Legislative Council held on the 17th March 1934, page 369 supra.]

When convicted.	For what offence.	By whom.	For what period.
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Clause (c).

20th August 1930 ..	First count, offence under section 420, Indian Penal Code; 2nd, 3rd and 5th counts, offences under section 471 read with section 466 of the Indian Penal Code; 4th count, section 471 read with section 467 of the Indian Penal Code.	High Court.	Rigorous imprisonment for three years on 1st count and rigorous imprisonment for one year on each of the other four counts, the sentences to run consecutively.
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Jails in which confined.

Period of stay in each.

Clause (d).

(1) The Penitentiary, Madras		20th August 1930 to 15th September 1930.
(2) Central Jail, Trichinopoly		16th September 1930 to 6th January 1931.
(3) " Coimbatore		7th January 1931 to 6th October 1931.
(4) " Vellore		8th October 1931 to 26th July 1933.
(5) " Salem		27th July 1933 up to date.

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